

2020 No. 1665

EXITING THE EUROPEAN UNION
SANCTIONS

The Libya (Sanctions) (EU Exit) Regulations 2020

Made - - - - - *29th December 2020*

Laid before Parliament *4th January 2021*

Coming into force in accordance with regulation 1(2) and (3)

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The Secretary of State^(a), in exercise of the powers conferred by sections 1(1)(a) and (c) and (3), 3(1)(a), (b)(ii), (d)(i) and (ii), 4, 5, 6, 7(6)(a) and (7), 8, 9(2), 10(2)(a) and (c), (3) and (4), 11, 13, 15(2)(a) and (b), (3), (4)(b), (5) and (6), 16, 17, 19, 20, 21(1), 54(1) and (2), and 62(4) to (6) of, and paragraphs 2(b), 3(a) and (b), 4(b) and (c), 5(a)(ii), (b), (c) and (d), 6(a)(ii) and (b), 7(a)(ii) and (b), 10(b), 11(a)(ii), 13(b), (h), (i), (k), (l), (m), (n) and (w), 14(a), (f) and (k), 15(a), (c) and

(a) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 is conferred on an appropriate Minister. Section 1(9)(a) of the Act defines an “appropriate Minister” as including the Secretary of State.

(d), 17, 19 to 23, 26 and 27 of Schedule 1 to, the Sanctions and Anti-Money Laundering Act 2018^(a), and having decided, upon consideration of the matters set out in section 2(2) of that Act, that it is appropriate to do so, makes the following Regulations:

PART 1

General

Citation and commencement

- 1.**—(1) These Regulations may be cited as the Libya (Sanctions) (EU Exit) Regulations 2020.
- (2) The following provisions come into force on 30th December 2020—
- (a) this regulation;
 - (b) regulation 2 (interpretation);
 - (c) regulation 4 (purposes);
 - (d) regulation 5 (power to designate persons);
 - (e) regulation 6 (criteria for designating a person);
 - (f) regulation 7 (meaning of “owned or controlled directly or indirectly”);
 - (g) regulation 8 (notification and publicity where designation power used);
 - (h) regulation 10 (designation of persons named by or under UN Security Council Resolutions);
 - (i) regulation 32 (interpretation of Part 5);
 - (j) Schedule 1 (rules for interpretation of regulation 7(2)).
- (3) All other provisions come into force on IP completion day^(b).

Interpretation

2. In these Regulations—

“the Act” means the Sanctions and Anti-Money Laundering Act 2018;

“arrangement” includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable (but see paragraph 12 of Schedule 1 for the meaning of that term in that Schedule);

“CEMA” means the Customs and Excise Management Act 1979^(c);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“the Committee” means the Committee of the Security Council established in accordance with paragraph 24 of resolution 1970;

“conduct” includes acts and omissions;

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include producing a copy of the information in legible form;

(a) 2018 c.13. Section 17(5)(b)(i) (enforcement) is prospectively amended by the Sentencing Act 2020 (c. 17) Schedule 24, paragraph 443(1).

(b) Schedule 1 to the Interpretation Act 1978 (c.30) provides that “IP completion day” has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (c.1) (see section 39(1) to (5) of that Act).

(c) 1979 c.2. Amendments have been made to this Act and are cited, where relevant, in respect of the applicable regulations.

“the EU Libya Regulation” means Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011(a), as it has effect in EU law;

a “non-UN designated person” means a person—

- (a) who is designated under regulation 5 (power to designate persons) for the purposes of regulations 12 to 16 (asset-freeze etc.), and
- (b) whose designation (in the opinion of the Secretary of State) is not required by paragraph 17 of resolution 1970;

“port licence” means a licence under regulation 50;

“resolution 1970” means resolution 1970 (2011) adopted by the Security Council on 26 February 2011;

“resolution 1973” means resolution 1973 (2011) adopted by the Security Council on 17 March 2011;

“resolution 2009” means resolution 2009 (2011) adopted by the Security Council on 16 September 2011;

“resolution 2095” means resolution 2095 (2013) adopted by the Security Council on 14 March 2013;

“resolution 2146” means resolution 2146 (2014) adopted by the Security Council on 19 March 2014;

“resolution 2174” means resolution 2174 (2014) adopted by the Security Council on 27 August 2014;

“resolution 2213” means resolution 2213 (2015) adopted by the Security Council on 27 March 2015;

“resolution 2362” means resolution 2362 (2017) adopted by the Security Council on 29 June 2017;

“resolution 2441” means resolution 2441 (2018) adopted by the Security Council on 5 November 2018;

“trade licence” means a licence under regulation 49;

“Treasury licence” means a licence under regulation 48(1);

“United Kingdom person” has the same meaning as in section 21 of the Act.

Application of prohibitions and requirements outside the United Kingdom

3.—(1) A United Kingdom person may contravene a relevant prohibition by conduct wholly or partly outside the United Kingdom.

(2) Any person may contravene a relevant prohibition or the prohibition under regulation 42(2)(b) (overflight of aircraft) by conduct in the territorial sea.

(3) In this regulation, a “relevant prohibition” means any prohibition imposed by—

- (a) regulation 9(2) (confidential information),
- (b) Part 3 (Finance),
- (c) Part 5 (Trade),
- (d) Part 6 (UN designated ships), except for regulation 36 (port access or entry for UN designated ships), or
- (e) a condition of a Treasury licence, a trade licence or a port licence.

(4) A United Kingdom person may comply, or fail to comply, with a relevant requirement by conduct wholly or partly outside the United Kingdom.

(a) OJ No. L 012, 19.1.2016, p. 1.

(5) Any person may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.

(6) In this regulation, a “relevant requirement” means any requirement imposed—

- (a) by or under Part 9 (Information and records), or by reason of a request made under a power conferred by that Part, or
- (b) by a condition of a Treasury licence, a trade licence or a port licence.

(7) Nothing in this regulation is to be taken to prevent a relevant prohibition or a relevant requirement from applying to conduct (by any person) in the United Kingdom.

Purposes

4.—(1) The regulations contained in this instrument that are made under section 1 of the Act have the following purposes—

- (a) compliance with the relevant UN obligations, and
- (b) the additional purposes mentioned in paragraph (2).

(2) Those additional purposes are—

- (a) promoting respect for human rights in Libya,
- (b) promoting the peace, stability and security of Libya,
- (c) promoting the successful completion of Libya’s transition to a democratic, independent and united country, and
- (d) preventing migrant smuggling and human trafficking taking place from Libya,

otherwise than by compliance with the relevant UN obligations.

(3) In this regulation, “the relevant UN obligations” means—

- (a) the obligation that the United Kingdom has by virtue of paragraph 17 of resolution 1970 (asset-freeze etc.) to take the measures required by that provision in respect of persons(a) for the time being named for the purposes of that provision by the Security Council or the Committee;
- (b) the obligations that the United Kingdom has by virtue of paragraph 17 of resolution 1970 in respect of persons—
 - (i) acting on behalf of or at the direction of, or
 - (ii) owned or controlled by,the persons for the time being named by the Security Council or the Committee for the purposes of paragraph 17 of resolution 1970;
- (c) the obligations that the United Kingdom has by virtue of paragraphs 9, 10 and 12 of resolution 1970 (arms embargo etc.) as read with paragraph 13 of resolution 2009, paragraphs 9 and 10 of resolution 2095 and paragraph 8 of resolution 2174;
- (d) the obligation that the United Kingdom has by virtue of paragraph 18 of resolution 1973 (in relation to the landing, taking off and overflying of certain aircraft);
- (e) the obligations that the United Kingdom has by virtue of paragraph 10 of resolution 2146 (in relation to ships for the time being designated by the Committee for the purposes of that paragraph)(b).

(4) In paragraph (3)(a) and (b)—

-
- (a) “Person” is defined by section 9(5) of the Sanctions and Anti-Money Laundering Act 2018 to include (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons.
 - (b) The measures in relation to designated ships provided for in paragraph 10 of resolution 2146 have been renewed by paragraph 14 of resolution 2213 (2015) adopted by the Security Council on 27 March 2015, paragraph 1 of resolution 2278 (2016) adopted by the Security Council on 31 March 2016, paragraph 2 of resolution 2362 (2017) adopted by the Security Council on 29 June 2017, paragraph 2 of resolution 2441 (2018) adopted by the Security Council on 5 November 2018 and paragraph 2 of resolution 2509 (2020) adopted by the Security Council on 11 February 2020.

- (a) a reference to persons named by the Security Council or the Committee for the purposes of paragraph 17 of resolution 1970 includes persons named by virtue of paragraph 19 of resolution 1973;
- (b) a reference to the obligations the United Kingdom has by virtue of paragraph 17 of resolution 1970 is to that provision as read with—
 - (i) paragraph 23 of resolution 1973,
 - (ii) paragraph 15 of resolution 2009,
 - (iii) paragraph 4 of resolution 2174,
 - (iv) paragraph 11 of resolution 2213,
 - (v) paragraph 11 of resolution 2362, and
 - (vi) paragraph 11 of resolution 2441.

PART 2

Designation of persons

Power to designate persons

5.—(1) The Secretary of State may designate persons by name for the purposes of any of the following—

- (a) regulations 12 to 16 (asset-freeze etc.);
- (b) regulation 22 (immigration).

(2) The Secretary of State may designate different persons for the purposes of different provisions mentioned in paragraph (1).

Criteria for designating a person

6.—(1) The Secretary of State may not designate a person under regulation 5 (power to designate persons) unless the Secretary of State—

- (a) has reasonable grounds to suspect that that person is an involved person, and
- (b) considers that the designation of that person is appropriate, having regard to—
 - (i) the purposes stated in regulation 4 (purposes), and
 - (ii) the likely significant effects of the designation on that person (as they appear to the Secretary of State to be on the basis of the information that the Secretary of State has).

(2) In this regulation an “involved person” means a person who—

- (a) is or has been involved in—
 - (i) the commission of a serious human rights violation or abuse in Libya;
 - (ii) the commission of a violation of international humanitarian law in Libya, including in particular attacking civilian populations or facilities in violation of international law;
 - (iii) activities carried out on behalf of the former regime of Muammar Qadhafi implementing or connected to the repressive policies of that regime;
 - (iv) any other activity which threatens the peace, stability and security of Libya or undermines its transition to a democratic, peaceful and independent country, including in particular—
 - (aa) attacking a port, airport, or other infrastructure, a foreign mission, or United Nations personnel, in Libya;

- (bb) illicitly exploiting oil or any other natural resources in Libya for the purposes of providing support to armed groups or criminal networks;
 - (cc) threatening or coercing the Libyan National Oil Company or Libyan state financial institutions;
 - (dd) misappropriating Libyan state funds, or taking action that may lead to such misappropriation,
- (b) is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,
 - (c) is acting on behalf of or at the direction of a person who is or has been so involved, or
 - (d) is a member of, or associated with, a person who is or has been so involved.

(3) Any reference in this regulation to being involved in an activity set out in paragraph (2)(a) includes being so involved in whatever way and wherever any actions constituting the involvement take place, and in particular includes—

- (a) being responsible for, engaging in, providing support for, or promoting any such activity;
- (b) providing financial services^(a), or making available funds or economic resources^(b), that could contribute to any such activity;
- (c) being involved in the supply to Libya of restricted goods or restricted technology or of material related to such goods or technology, or in providing financial services relating to such supply;
- (d) being involved in the supply to Libya of goods or technology which could contribute to any such activity, or in providing financial services relating to such supply;
- (e) assisting the contravention or circumvention of any relevant provision.

(4) For the purposes of this regulation, being “involved in” misappropriating Libyan state funds includes owning or controlling Libyan state funds which were misappropriated during the former regime of Muammar Qadhafi.

(5) In this regulation—

“relevant provision” means—

- (a) any provision of Part 3 (Finance), Part 5 (Trade), Part 6 (Trade, transport and finance measures related to UN designated ships), or Part 7 (Aircraft);
- (b) any provision of the law of a country other than the United Kingdom made for purposes corresponding to a purpose of any provision of Part 3 or Parts 5 to 7;
- (c) any provision of resolution 1970, resolution 1973 or resolution 2146;

“restricted goods” and “restricted technology” have the meanings given by Part 5.

(6) Nothing in any sub-paragraph of paragraph (3) is to be taken to limit the meaning of any of the other sub-paragraphs of that paragraph.

Meaning of “owned or controlled directly or indirectly”

7.—(1) A person who is not an individual (“C”) is “owned or controlled directly or indirectly” by another person (“P”) if either of the following two conditions is met (or both are met).

(2) The first condition is that P—

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right, directly or indirectly, to appoint or remove a majority of the board of directors of C.

(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(a) “Financial services” is defined in section 61 of the Act.

(b) “Funds” and “economic resources” are defined in section 60 of the Act.

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

Notification and publicity where designation power used

8.—(1) Paragraph (2) applies where the Secretary of State—

- (a) has made a designation under regulation 5 (power to designate persons), or
- (b) has by virtue of section 22 of the Act varied or revoked a designation made under that regulation.

(2) The Secretary of State—

- (a) must without delay take such steps as are reasonably practicable to inform the designated person of the designation, variation or revocation, and
- (b) must take steps to publicise the designation, variation or revocation.

(3) The information given under paragraph (2)(a) where a designation is made must include a statement of reasons.

(4) In this regulation a “statement of reasons”, in relation to a designation, means a brief statement of the matters that the Secretary of State knows, or has reasonable grounds to suspect, in relation to the designated person which have led the Secretary of State to make the designation.

(5) Where the Secretary of State considers that a person's designation is required by paragraph 17 of resolution 1970, the statement of reasons must include a statement that in the Secretary of State's opinion the designation is required by that paragraph.

(6) Matters that would otherwise be required by paragraph (4) or (5) to be included in a statement of reasons may be excluded from it where the Secretary of State considers that they should be excluded—

- (a) in the interests of national security or international relations,
- (b) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
- (c) in the interests of justice.

(7) The steps taken under paragraph (2)(b) must—

- (a) unless one or more of the restricted publicity conditions is met, be steps to publicise generally—
 - (i) the designation, variation or revocation, and
 - (ii) in the case of a designation, the statement of reasons;
- (b) if one or more of those conditions is met, be steps to inform only such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons.

(8) The “restricted publicity conditions” are as follows—

- (a) the designation is of a person believed by the Secretary of State to be an individual under the age of 18;
- (b) the Secretary of State considers that disclosure of the designation, variation or revocation should be restricted—
 - (i) in the interests of national security or international relations,
 - (ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or
 - (iii) in the interests of justice.

(9) Paragraph (10) applies if—

- (a) when a designation is made one or more of the restricted publicity conditions is met, but

- (b) at any time when the designation has effect, it becomes the case that none of the restricted publicity conditions is met.

(10) The Secretary of State must—

- (a) take such steps as are reasonably practicable to inform the designated person that none of the restricted publicity conditions is now met, and
- (b) take steps to publicise generally the designation and the statement of reasons relating to it.

Confidential information in certain cases where designation power used

9.—(1) Where the Secretary of State in accordance with regulation 8(7)(b) informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.

(2) A person (“P”) who—

- (a) is provided with information that is to be treated as confidential in accordance with paragraph (1), or
- (b) obtains such information,

must not, subject to paragraph (3), disclose it if P knows, or has reasonable cause to suspect, that the information is to be treated as confidential.

(3) The prohibition in paragraph (2) does not apply to any disclosure made by P with lawful authority.

(4) For this purpose information is disclosed with lawful authority only if and to the extent that—

- (a) the disclosure is by, or is authorised by, the Secretary of State,
- (b) the disclosure is by or with the consent of the person who is or was the subject of the designation,
- (c) the disclosure is necessary to give effect to a requirement imposed under or by virtue of these Regulations or any other enactment, or
- (d) the disclosure is required, under rules of court, tribunal rules or a court or tribunal order, for the purposes of legal proceedings of any description.

(5) This regulation does not prevent the disclosure of information that is already, or has previously been, available to the public from other sources.

(6) A person who contravenes the prohibition in paragraph (2) commits an offence.

(7) The High Court (in Scotland, the Court of Session) may, on the application of—

- (a) the person who is the subject of the information, or
- (b) the Secretary of State,

grant an injunction (in Scotland, an interdict) to prevent a breach of the prohibition in paragraph (2).

(8) In paragraph (4)(c), “enactment” has the meaning given by section 54(6) of the Act.

Designation of persons named by or under UN Security Council Resolutions

10.—(1) Any person falling within paragraph (2), other than the Libyan Investment Authority and the Libyan Africa Investment Portfolio, is a designated person for the purposes of regulations 12 to 16 (asset-freeze etc.) (whose purposes include compliance with the UN obligations mentioned in regulation 4(3)(a))(a).

(a) Section 13 of the Act requires that where the purposes of a provision of regulations under section 1 include compliance with a UN obligation to take particular measures in relation to UN-named persons (which is the case with the regulations

- (2) A person falls within this paragraph if that person is—
- (a) for the time being named by the Security Council or the Committee for the purposes of paragraph 17 of resolution 1970;
 - (b) for the time being named by the Security Council or the Committee for the purposes of paragraph 19 of resolution 1973.

(3) The Libyan Investment Authority and the Libyan Africa Investment Portfolio named in Annex II of resolution 1973 are designated persons for the purposes of regulations 18 to 20 (partial asset-freeze etc.) (whose purpose is compliance with the UN obligations mentioned in regulation 4(3)(a) and in particular regulation 4(4)(b)(ii)).

(4) Nothing in this regulation affects the power under regulation 5 to designate persons (in addition to those designated by this regulation) for the purposes of regulations 12 to 16.

PART 3

Finance

CHAPTER 1

Asset-freeze etc.

Meaning of “designated person” in Chapter 1

- 11.** In this Chapter a “designated person” means—
- (a) a person who is designated under regulation 5 for the purposes of regulations 12 to 16 (asset-freeze etc.), or
 - (b) a person who is a designated person for the purposes of those regulations by reason of regulation 10(1).

Asset-freeze in relation to designated persons

12.—(1) A person (“P”) must not deal with funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1), a person “deals with” funds if the person—
- (a) uses, alters, moves, transfers or allows access to the funds,
 - (b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
 - (c) makes any other change, including portfolio management, that would enable use of the funds.
- (5) For the purposes of paragraph (1), a person “deals with” economic resources if the person—
- (a) exchanges the economic resources for funds, goods or services, or
 - (b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).
- (6) The reference in paragraph (1) to funds or economic resources that are “owned, held or controlled” by a person includes, in particular, a reference to—

mentioned in regulation 10), the regulations must provide for those persons to be designated persons for the purposes of that provision.

- (a) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;
- (b) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.

(7) For the purposes of paragraph (1), funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(8) For the avoidance of doubt, the reference in paragraph (1) to a designated person includes P if P is a designated person.

Making funds available to designated persons

13.—(1) A person (“P”) must not make funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Making funds available for benefit of designated persons

14.—(1) A person (“P”) must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) For the purposes of this regulation—

- (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
- (b) “financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

Making economic resources available to designated persons

15.—(1) A person (“P”) must not make economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect—

- (a) that P is making the economic resources so available, and
- (b) that the designated person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence.

(4) The reference in paragraph (1) to making economic resources available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Making economic resources available for benefit of designated persons

16.—(1) A person (“P”) must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1)—
 - (a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
 - (b) “financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

CHAPTER 2

Partial asset-freeze etc.

Meaning of “designated person” in Chapter 2

17. In this Chapter a “designated person” means a person who is a designated person for the purposes of regulation 18 to 20 (partial asset-freeze etc.) by reason of regulation 10(3).

Partial asset-freeze in relation to designated persons

18.—(1) A person (“P”) must not deal with relevant funds or economic resources owned, held or controlled by a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1), “relevant funds or economic resources” are—
 - (a) funds or economic resources located outside Libya immediately before 17 September 2011,
 - (b) funds credited on or after 17 September 2011 to a relevant account in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person, and
 - (c) any interest or other earnings on the funds referred to in sub-paragraphs (a) and (b) credited on or after 17 September 2011 to a relevant account.
- (5) For the purposes of paragraph (1), a person “deals with” funds if the person—
 - (a) uses, alters, moves, transfers or allows access to the funds,
 - (b) deals with the funds in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination, or
 - (c) makes any other change, including portfolio management, that would enable use of the funds.
- (6) For the purposes of paragraph (1), a person “deals with” economic resources if the person—
 - (a) exchanges the economic resources for funds, goods or services, or
 - (b) uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).
- (7) The reference in paragraph (1) to funds or economic resources that are “owned, held or controlled” by a person—
 - (a) includes, in particular, a reference to—

- (i) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources;
 - (ii) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person;
- (b) does not include funds or economic resources owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.
- (8) In this regulation—
- “relevant account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person;
- “relevant institution” has the same meaning that it has in regulation 43 (finance: exceptions from prohibitions).
- (9) For the avoidance of doubt the reference to a designated person in paragraph (4), and in the definition of “relevant account” in paragraph (8), includes P if P is a designated person.

Making funds available to designated persons

19.—(1) A person (“P”) must not make relevant funds available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) For the purposes of paragraph (1), “relevant funds” are—
 - (a) interest or other earnings due on funds held in a relevant account (within the meaning of regulation 18) which are frozen by virtue of regulation 18(1), and
 - (b) funds due to a designated person by virtue of an obligation which arose prior to the date on which the person became a designated person.
- (5) The reference in paragraph (1) to making funds available indirectly to a designated person includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Making funds available for benefit of designated persons

20.—(1) A person (“P”) must not make relevant funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes the prohibition in paragraph (1) commits an offence.
- (4) In paragraph (1), “relevant funds” has the same meaning as in regulation 19 (making funds available to designated persons).
- (5) For the purposes of paragraph (1)—
 - (a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and
 - (b) “financial benefit” includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

CHAPTER 3
Circumvention

Circumventing etc. prohibitions

21.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in regulations 12 to 16 (asset-freeze etc.) or regulations 18 to 20 (partial asset-freeze etc.), or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

PART 4
Immigration

Immigration

22. A person who is designated under regulation 5 (power to designate persons) for the purposes of this regulation is an excluded person for the purposes of section 8B of the Immigration Act 1971(a).

PART 5
Trade
CHAPTER 1

Trade prohibitions related to goods and technology

Export of restricted goods

23.—(1) The export of restricted goods to, or for use in, Libya is prohibited.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

Import of arms and related materiel and internal repression goods

24.—(1) The import of the following goods which are consigned from Libya is prohibited—

- (a) arms and related materiel;
- (b) internal repression goods.

(2) The import of goods mentioned in paragraph (1) which originate in Libya, is prohibited.

(3) Paragraphs (1) and (2) are subject to Part 8 (Exceptions and licences).

Supply and delivery of certain goods

25.—(1) A person must not—

- (a) directly or indirectly supply or deliver restricted goods from a third country to a place in Libya;

(a) 1971 c.77. Section 8B was inserted by the Immigration and Asylum Act 1999 (c.33), section 8 and amended by the Immigration Act 2016 (c.19), section 76; and the Sanctions and Anti-Money Laundering Act 2018, section 59 and Schedule 3, Part 1.

- (b) directly or indirectly supply or deliver military goods or internal repression goods from a place in Libya to a third country.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but —
 - (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Libya.
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the supply or delivery was from a place in Libya, whether directly or indirectly.
- (4) In this regulation “third country” means a country that is not the United Kingdom, the Isle of Man or Libya.

Making available or acquiring certain goods and technology

- 26.**—(1) A person must not—
- (a) directly or indirectly make restricted goods or restricted technology available to a person connected with Libya;
 - (b) directly or indirectly make restricted goods or restricted technology available for use in Libya;
 - (c) directly or indirectly acquire military goods, internal repression goods or restricted technology from a person connected with Libya;
 - (d) directly or indirectly acquire military goods, internal repression goods or restricted technology which originate in Libya;
 - (e) directly or indirectly acquire military goods, internal repression goods or restricted technology located in Libya.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—
- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) or (c) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
 - (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Libya;
 - (c) it is a defence for a person charged with the offence of contravening paragraph (1)(d) to show that the person did not know and had no reasonable cause to suspect that the goods or technology originated in Libya;
 - (d) it is a defence for a person charged with the offence of contravening paragraph (1)(e) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were located in Libya.

Transfer of restricted technology

- 27.**—(1) A person must not—
- (a) transfer restricted technology to a place in Libya;
 - (b) transfer restricted technology to a person connected with Libya;
 - (c) transfer restricted technology to persons outside the United Kingdom or to a place outside the United Kingdom, where the transfer is from a place in Libya.
- (2) Paragraph (1) is subject to Part 8 (Exceptions and licences).
- (3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) to show that the person did not know and had no reasonable cause to suspect that the transfer was to a place in Libya;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
- (c) it is a defence for a person charged with the offence of contravening paragraph (1)(c) to show that the person did not know and had no reasonable cause to suspect that the transfer was from a place in Libya.

Technical assistance relating to restricted goods and restricted technology

28.—(1) A person must not directly or indirectly provide technical assistance relating to restricted goods or restricted technology—

- (a) to a person connected with Libya, or
- (b) for use in Libya.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but—

- (a) it is a defence for a person charged with the offence of contravening paragraph (1)(a) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
- (b) it is a defence for a person charged with the offence of contravening paragraph (1)(b) to show that the person did not know and had no reasonable cause to suspect that the goods or technology were for use in Libya.

Financial services and funds relating to restricted goods and restricted technology

29.—(1) A person must not directly or indirectly provide, to a person connected with Libya, financial services in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of restricted goods,
- (b) the direct or indirect supply or delivery of restricted goods,
- (c) directly or indirectly making restricted goods or restricted technology available to a person,
- (d) the transfer of restricted technology, or
- (e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.

(2) A person must not directly or indirectly make funds available to a person connected with Libya in pursuance of or in connection with an arrangement mentioned in paragraph (1).

(3) A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—

- (a) the export of restricted goods to, or for use in, Libya,
- (b) the direct or indirect supply or delivery of restricted goods to a place in Libya,
- (c) directly or indirectly making restricted goods or restricted technology available—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya,
- (d) the transfer of restricted technology—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya, or

- (e) the direct or indirect provision of technical assistance relating to restricted goods or military technology—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya.
- (4) Paragraphs (1) to (3) are subject to Part 8 (Exceptions and licences).
- (5) A person who contravenes a prohibition in any of paragraphs (1) to (3) commits an offence, but—
 - (a) it is a defence for a person charged with the offence of contravening paragraph (1) or (2) (“P”) to show that P did not know and had no reasonable cause to suspect that the person was connected with Libya;
 - (b) it is a defence for a person charged with the offence of contravening a prohibition in paragraph (3) to show that the person did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in that paragraph.

Brokering services: non-UK activity relating to restricted goods and restricted technology

30.—(1) A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—

- (a) the direct or indirect supply or delivery of restricted goods from a third country to a place in Libya,
- (b) directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (c) directly or indirectly making restricted technology available in a third country for transfer—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (d) the transfer of restricted technology from a place in a third country—
 - (i) to a person connected with Libya, or
 - (ii) to a place in Libya,
- (e) the direct or indirect provision, in a non-UK country, of technical assistance relating to restricted goods or restricted technology—
 - (i) to a person connected with Libya, or
 - (ii) for use in Libya,
- (f) the direct or indirect provision, in a non-UK country, of financial services—
 - (i) to a person connected with Libya, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(1), or
 - (ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(3),
- (g) directly or indirectly making funds available, in a non-UK country, to a person connected with Libya, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(1), or
- (h) the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 29(3).

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“third country” means—

- (a) for the purposes of paragraph (1)(a) and (b), a country that is not the United Kingdom, the Isle of Man or Libya,
- (b) for the purposes of any other provision of paragraph (1), a country that is not the United Kingdom or Libya.

CHAPTER 2

Enabling or facilitating the conduct of armed hostilities

Enabling or facilitating the conduct of armed hostilities

31.—(1) A person must not directly or indirectly provide—

- (a) technical assistance,
- (b) armed personnel,
- (c) financial services or funds, or
- (d) brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, anything mentioned in sub-paragraphs (a) to (c),

where such provision enables or facilitates the conduct of armed hostilities in Libya.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of armed hostilities in Libya.

(4) In this regulation—

“non-UK country” means a country that is not the United Kingdom;

“technical assistance” means the provision of technical support or any other technical service.

(5) Nothing in this regulation is to be taken to limit the meaning of any of the prohibitions contained in Chapter 1.

CHAPTER 3

Interpretation, circumvention and defences

Interpretation of this Part

32.—(1) In this Part—

“arms and related materiel” means—

- (a) military goods, and
- (b) any thing which is, or would be, classified under chapter 93 of the Goods Classification Table, other than military goods;

“brokering service” means any service to secure, or otherwise in relation to, an arrangement, including but not limited to—

- (a) the selection or introduction of persons as parties or potential parties to the arrangement,
- (b) the negotiation of the arrangement,
- (c) the facilitation of anything that enables the arrangement to be entered into, and

(d) the provision of any assistance that in any way promotes or facilitates the arrangement;
“the Goods Classification Table” has the same meaning as it has in paragraph 1(3) in Part 1 of Schedule 3;

“goods which could be used for migrant smuggling and human trafficking” has the meaning given in paragraph 2 of Schedule 3;

“internal repression goods” means—

- (a) any thing specified in Schedule 2, other than—
 - (i) any thing which is internal repression technology, or
 - (ii) any thing for the time being specified in—
 - (aa) Schedule 2 to the Export Control Order 2008(a), or
 - (bb) Annex I of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, and
- (b) any tangible storage medium on which internal repression technology is recorded or from which it can be derived;

“internal repression technology” means any thing which is described in Schedule 2 as software or technology, within the meaning of that Schedule;

“military goods” means—

- (a) any thing for the time being specified in Schedule 2 to the Export Control Order 2008, other than any thing which is military technology, and
- (b) any tangible storage medium on which military technology is recorded or from which it can be derived;

“military technology” means any thing for the time being specified in Schedule 2 to the Export Control Order 2008 which is described as software or technology;

“restricted goods” means—

- (a) goods which could be used for migrant smuggling and human trafficking,
- (b) internal repression goods, and
- (c) military goods;

“restricted technology” means—

- (a) internal repression technology, and
- (b) military technology;

“technical assistance”, in relation to goods or technology, means—

- (a) technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or
- (b) any other technical service relating to the goods or technology;

“transfer” has the meaning given by paragraph 37 of Schedule 1 to the Act.

(2) For the purpose of the definition of “arms and related materiel” in paragraph (1), paragraph 1(2) of Schedule 3 (rules of interpretation for the purpose of determining whether or not a thing is “classified”) applies.

(3) Paragraphs 32 to 36 of Schedule 1 to the Act (trade sanctions) apply for the purpose of interpreting expressions in this Part.

(4) In this Part, any reference to the United Kingdom includes a reference to the territorial sea.

(a) S.I. 2008/3231. Schedule 2 was substituted by S.I. 2017/85 and subsequently amended by S.I. 2017/697; S.I. 2018/165; S.I. 2018/939; S.I. 2019/137; and S.I. 2019/989. There are other instruments which amend other parts of the Order, which are not relevant to these Regulations.

(5) For the purposes of this Part, a person is to be regarded as “connected with” Libya if the person is—

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Libya,
- (b) an individual who is, or an association or combination of individuals who are, located in Libya,
- (c) a person, other than an individual, which is incorporated or constituted under the law of Libya, or
- (d) a person, other than an individual, which is domiciled in Libya.

Circumventing etc. prohibitions

33.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent any of the prohibitions in Chapter 1 or 2 of this Part, or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

Defences

34.—(1) Paragraph (2) applies where a person relies on a defence under Chapter 1 or 2 of this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

PART 6

Trade, transport and finance measures related to UN designated ships

Transporting etc. Libyan oil in relation to UN designated ships

35.—(1) A person must not cause or permit a designated ship—

- (a) to transport Libyan oil, or
- (b) to have Libyan oil loaded onto or discharged from it.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes a prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the ship was a designated ship.

(4) For the purposes of paragraph (1), a “designated ship” means a ship for the time being designated by the Committee for the purpose of paragraph 10(a) of resolution 2146.

Port access or entry for UN designated ships

36.—(1) A person must not provide a designated ship with access to a port in the United Kingdom, if the person knows, or has reasonable cause to suspect, that the ship is a designated ship.

(2) The master or pilot of a designated ship must not cause or permit that ship to enter any port in the United Kingdom if the master or pilot knows, or has reasonable cause to suspect, that the ship is a designated ship.

(3) Paragraphs (1) and (2) are subject to Part 8 (Exceptions and licences).

(4) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence.

(5) In paragraphs (1) and (2), “designated ship” means a ship for the time being designated by the Committee for the purpose of paragraph 10(b) of resolution 2146.

Bunkering or ship supply services

37.—(1) A person must not provide bunkering or ship supply services relating to a designated ship.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the ship was a designated ship.

(4) In this regulation—

“bunkering or ship supply services” includes—

- (a) the supply of goods for use in a ship including fuel and spare parts, whether or not for immediate use, and
- (b) any other servicing of a ship;

“designated ship” means a ship for the time being designated by the Committee for the purpose of paragraph 10(c) of resolution 2146.

Financial transactions in relation to Libyan oil aboard UN designated ships

38.—(1) A person must not enter into any financial transaction relating to Libyan oil aboard a designated ship.

(2) Paragraph (1) is subject to Part 8 (Exceptions and licences).

(3) A person who contravenes the prohibition in paragraph (1) commits an offence, but it is a defence for a person charged with that offence to show that the person did not know and had no reasonable cause to suspect that the ship was a designated ship.

(4) In this regulation—

“designated ship” means a ship for the time being designated by the Committee for the purpose of paragraph 10(d) of resolution 2146;

a “financial transaction relating to Libyan oil”—

- (a) includes its purchase or sale, its use as credit and the taking out of transport insurance in respect of it;
- (b) does not include the payment or receipt of any fees pursuant to the entry into port of a ship carrying that oil.

Circumventing etc. prohibitions

39.—(1) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent a prohibition in regulation 35 (transporting etc. Libyan oil in relation to UN designated ships) or 37 (bunkering or ship supply services), or
- (b) to enable or facilitate the contravention of any such prohibition.

(2) A person who contravenes a prohibition in paragraph (1) commits an offence.

(3) A person must not intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly—

- (a) to circumvent the prohibition in regulation 38 (financial transactions in relation to Libyan oil aboard UN designated ships), or
- (b) to enable or facilitate the contravention of that prohibition.

(4) A person who contravenes a prohibition in paragraph (3) commits an offence.

Defences

40.—(1) Paragraph (2) applies where a person relies on a defence under this Part.

(2) If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

Interpretation of Part 6

41.—(1) In this Part, “Libyan oil” means petroleum, including crude oil and refined petroleum products, originating from Libya.

(2) For the purposes of paragraph (1)—

“crude oil” means anything which falls within the commodity code 2709;

“refined petroleum products” means anything which falls within any of the following commodity codes—

(a) 2710;

(b) 2712;

(c) 2713.

(3) For the purposes of paragraph (2), whether or not a thing “falls within” any of the “commodity codes” specified in that paragraph is to be determined in accordance with paragraph 1 in Part 1 of Schedule 3.

(4) In regulations 35, 37 and 38 (transporting etc. Libyan oil in relation to UN designated ships, bunkering or ship supply services, and financial transactions in relation to Libyan oil aboard UN designated ships), “ship” includes every description of vessel (including a hovercraft) used in navigation.

(5) In regulation 36 (port access or entry for UN designated ships), “ship” includes every description of vessel (including a hovercraft) used in navigation, except the naval, military or air-force ships of any country.

(6) Any other expression used in this Part and in section 7 of the Act (shipping sanctions) has the same meaning in this Part as it has in that section.

PART 7

Aircraft

Movement of aircraft

42.—(1) Paragraph (2) applies where an aircraft is being used to transport military goods or armed personnel (or both) to any place in Libya (directly or indirectly).

(2) The operator or pilot in command of an aircraft to which this paragraph applies must not cause or permit the aircraft to—

(a) take off from the United Kingdom,

(b) overfly the United Kingdom, or

(c) land in the United Kingdom.

(3) Where air traffic control knows or has reasonable grounds to suspect that an aircraft approaching UK airspace or which has already entered UK airspace is being used to transport military goods or armed personnel (or both) to any place in Libya (directly or indirectly), air traffic control must—

(a) refuse permission for the aircraft to enter UK airspace or to overfly the United Kingdom;

(b) require the aircraft to leave UK airspace.

(4) Air traffic control may issue instructions to the aircraft in connection with a refusal or requirement under paragraph (3).

(5) Instructions issued to an aircraft pursuant to paragraph (4) may permit incursion into UK airspace by the aircraft only where it is necessary to do so in order to enable the aircraft to comply safely with an instruction to leave UK airspace.

(6) Where an airport operator knows or has reasonable grounds to suspect that an aircraft at or approaching an airport is being used to transport military goods or armed personnel (or both) to any place in Libya (directly or indirectly) the airport operator must (as the case may be)—

(a) not permit the aircraft to take off from the airport;

(b) refuse permission to the aircraft to land at the airport.

(7) Paragraphs (2) to (6) are subject to Part 8 (Exceptions and licences).

(8) A person who contravenes a prohibition in paragraph (2) or (6) or fails to comply with a requirement in paragraph (6) commits an offence.

(9) It is a defence for a person charged with the offence of breaching the prohibition in paragraph (2) to show that the person did not know and had no reasonable cause to suspect that the aircraft was being used to transport military goods or armed personnel to any place in Libya.

(10) For the purposes of this regulation, an aircraft is being used to “transport” military goods if the aircraft contains military goods which have been, or are being, dealt with in contravention of a prohibition—

(a) in regulation 23 or 25 (trade prohibitions relating to restricted goods), or

(b) imposed by a condition of a trade licence in relation to a prohibition mentioned in subparagraph (a).

(11) In this regulation, “UK airspace” means the airspace above the United Kingdom (and includes the airspace above the territorial sea of the United Kingdom).

(12) Any expression used in this regulation and in section 6 of the Act (aircraft sanctions) has the same meaning in this regulation as it has in that section.

PART 8

Exceptions and licences

Finance: exceptions from prohibitions

43.—(1) The prohibitions in regulation 12 and 18 (asset-freeze and partial asset-freeze in relation to designated persons) are not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—

(a) is held by P, and

(b) is not held jointly with the designated person.

(2) In paragraph (1) “independent person” means a person who—

(a) is not the designated person, and

(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

(3) The prohibitions in regulations 12 to 14 (asset-freeze in relation to, and making funds available to or for the benefit of, designated persons) and 18 (partial-asset freeze in relation to designated persons) are not contravened by a relevant institution crediting a frozen account or a relevant account with interest or other earnings due on the account.

(4) The prohibitions in regulations 13 and 14 (making funds available to, or for the benefit of, designated persons) and 19 and 20 (making funds available to, or for the benefit of, designated persons in connection with a partial asset-freeze) are not contravened by a relevant institution crediting a frozen account or a relevant account where it receives funds transferred to that institution for crediting to that account.

(5) The prohibitions in regulations 13, 14, 19 and 20 are not contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.

(6) The prohibitions in regulations 12 to 14, and regulations 18 to 20, are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where—

- (a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(a),
- (b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(b), and
- (c) accounts A and B are held or controlled (directly or indirectly) by P.

(7) In this regulation—

“designated person” means a designated person within the meaning of regulation 11 or 17;

“frozen account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person within the meaning of regulation 11;

“relevant account” means an account with a relevant institution which is held or controlled (directly or indirectly) by a designated person within the meaning of regulation 17;

“relevant institution” means a person that has permission under Part 4A of the Financial Services and Markets Act 2000(c) (permission to carry on regulated activity).

(8) The definition of “relevant institution” in paragraph (7) is to be read with section 22 of the Financial Services and Markets Act 2000(d), any relevant order under that section (e) and Schedule 2 to that Act (f).

Port access or entry for UN designated ships: exception from prohibitions

44.—(1) The prohibition in regulation 36(1) (port access or entry for UN designated ships) is not contravened by providing a ship with access to a port if the access is needed by the ship in a case of emergency.

(2) The prohibition in regulation 36(2) is not contravened by the entry into port of a ship if the entry is needed by the ship in a case of emergency.

Aircraft: exceptions

45.—(1) The prohibition in regulation 42(2)(c) (movement of aircraft) is not contravened by the landing of an aircraft in the United Kingdom if failing to land would endanger the lives of persons on board or the safety of the aircraft.

(a) 2000 c.8. Section 142D was inserted by the Financial Services (Banking Reform) Act 2013 (c.33), section 4(1).

(b) Section 142A was inserted by the Financial Services (Banking Reform) Act 2013, section 4(1).

(c) Part 4A was inserted by the Financial Services Act 2012 (c.21), section 11(2) and most recently amended by S.I. 2018/546; it is prospectively amended by S.I. 2019/632.

(d) Section 22 was amended by the Financial Guidance and Claims Act 2018 (c.10), section 27(4); the Financial Services Act 2012 (c.21), section 7(1); and S.I. 2018/135.

(e) S.I. 2001/544 as most recently amended by S.I. 2019/679; S.I. 2020/117; and S.I. 2020/480; and it is prospectively amended by S.I. 2018/1149; S.I. 2108/1403; S.I. 2019/632; S.I. 2019/660; S.I. 2019/710; S.I. 2019/1361.

(f) Schedule 2 was amended by the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1; the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15 and Schedule 2, paragraph 1; the Financial Services Act 2012, sections 7(2) to (5) and 8; the Financial Guidance and Claims Act 2018, section 27(13); S.I. 2013/1881; S.I. 2018/135; and it is prospectively amended by S.I. 2019/632.

(2) The prohibition in regulation 42(2)(b) is not contravened by the flight of an aircraft in UK airspace preparatory to a landing as mentioned in paragraph (1).

(3) A prohibition or requirement in regulations 42(3) to (6) is not contravened by conduct necessary to—

- (a) avoid endangering the lives of persons on board or the safety of the aircraft,
- (b) protect the safety of another aircraft, or
- (c) protect the safety of persons on the ground.

(4) In paragraph (2) “UK airspace” has the same meaning as in regulation 42(11).

Exception for authorised conduct in a relevant country

46.—(1) Where a person’s conduct in a relevant country would, in the absence of this regulation, contravene a relevant prohibition, the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation which is issued—

- (a) under the law of the relevant country, and
- (b) for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

(2) In this regulation—

“relevant country” means—

- (a) any of the Channel Islands,
- (b) the Isle of Man, or
- (c) any British overseas territory;

“relevant prohibition” means a prohibition in any of—

- (d) regulations 12 to 16 (asset-freeze etc.),
- (e) regulations 18 to 20 (partial asset-freeze etc.),
- (f) Chapters 1 and 2 of Part 5 (Trade), or
- (g) regulations 35 (transporting etc. Libyan oil in relation to UN designated ships), 37 (bunkering or ship supply services), or 38 (financial transactions in relation to Libyan oil).

(3) Nothing in this regulation affects the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.

Exception for acts done for purposes of national security or prevention of serious crime

47.—(1) Where an act would, in the absence of this paragraph, be prohibited by the prohibition in regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), Part 5 (Trade), Part 6 (UN designated ships) or Part 7 (Aircraft), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—

- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7, Part 9 (Information and records) or Part 11 (Maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—

- (a) national security, or
- (b) the prevention or detection of serious crime in the United Kingdom or elsewhere.

(3) In this regulation “responsible officer” means a person in the service of the Crown or holding office under the Crown, acting in the course of that person’s duty.

(4) Nothing in this regulation affects the application of a prohibition or requirement in a case where it would be incompatible with a UN obligation for the prohibition or requirement not to apply.

Treasury licences

48.—(1) The prohibitions in regulations 12 to 16 (asset-freeze etc.), 18 to 20 (partial asset-freeze etc.) and regulation 38 (financial transactions in relation to Libyan oil) do not apply to anything done under the authority of a licence issued by the Treasury under this paragraph.

(2) Paragraphs (3) and (4) apply to the issuing of a licence which authorises acts which would otherwise be prohibited by regulations 12 to 16.

(3) The Treasury may issue a licence which authorises acts by a particular person in relation to a non-UN designated person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Chapter 1 of Part 1, or in Part 3 of, Schedule 4.

(4) The Treasury may issue a licence which authorises acts in relation to a UN designated person, other than the Libyan Investment Authority or the Libyan Africa Investment Portfolio, only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Chapter 1 of Part 1, or in Part 2 of Schedule 4.

(5) Paragraph (6) applies to the issuing of a licence which authorises acts which would otherwise be prohibited by regulations 18 to 20.

(6) The Treasury may issue a licence which authorises acts in relation to the Libyan Investment Authority or the Libyan Africa Investment Portfolio only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1 of Schedule 4.

(7) The Treasury may issue a licence which authorises acts which would otherwise be prohibited by regulation 38 only where the Treasury consider that it is appropriate to issue the licence in order to give effect to an exception made by the Committee to paragraph 10(d) of resolution 2146.

(8) In paragraph (4) “UN designated person” means—

- (a) a person who is a designated person for the purposes of regulations 12 to 16 or regulations 18 to 20 by reason of regulation 10 (designation of persons named by or under UN Security Council Resolutions), or
- (b) a person who is designated under regulation 5 (power to designate persons) for the purposes of regulations 12 to 16 and whose designation is (in the opinion of the Secretary of State) required by paragraph 17 of resolution 1970 (read in accordance with regulation 4(4)).

Trade licences

49. The prohibitions in Chapters 1 and 2 of Part 5 (Trade), regulation 35 (transporting etc. Libyan oil in relation to UN designated ships) and regulation 37 (bunkering or ship supply services) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

Port licences

50. The prohibitions in regulation 36 (port access or entry for UN designated ships) do not apply to anything done under the authority of a licence issued by the Secretary of State under this regulation.

Licences: general provisions

51.—(1) This regulation applies in relation to Treasury licences, trade licences and port licences.

(2) A licence must specify the acts authorised by it.

(3) A licence may be general or may authorise acts by a particular person or persons of a particular description.

(4) A licence may—

- (a) contain conditions;
- (b) be of indefinite duration or a defined duration.

(5) A person who issues a licence may vary, revoke or suspend it at any time.

(6) A person who issues, varies, revokes or suspends a licence which authorises acts by a particular person must give written notice to that person of the issue, variation, revocation or suspension of the licence.

(7) A person who issues, varies, revokes or suspends a general licence or a licence which authorises acts by persons of a particular description must take such steps as that person considers appropriate to publicise the issue, variation, revocation or suspension of the licence.

Finance: licensing offences

52.—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a Treasury licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a Treasury licence but who fails to comply with any condition of the licence commits an offence.

Trade: licensing offences

53.—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a trade licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a trade licence but who fails to comply with any condition of the licence commits an offence.

(3) A licence in respect of which an offence under paragraph (1) has been committed is to be treated as void from the time at which it was issued.

Port access or entry for UN designated ships: licensing offences

54.—(1) A person (“P”) commits an offence if P knowingly or recklessly—

- (a) provides information that is false in a material respect, or
- (b) provides or produces a document that is not what it purports to be,

for the purpose of obtaining a port licence (whether for P or anyone else).

(2) A person who purports to act under the authority of a port licence but who fails to comply with any condition of the licence commits an offence.

(3) A licence in respect of which an offence under paragraph (1) has been committed is to be treated as void from the time at which it was issued.

Section 8B(1) to (3) of the Immigration Act 1971: directions

55.—(1) The Secretary of State may direct that, in relation to any person within regulation 22 (immigration) whose name is specified, or who is of a specified description, section 8B(1) and (2) of the Immigration Act 1971, or section 8B(3) of that Act, have effect subject to specified exceptions.

(2) A direction under this regulation—

- (a) may contain conditions;

- (b) must be of a defined duration (and that duration may be expressed in any way, including, for example, being expressed in a way such that the direction ceases to have effect on, or within a specified period after, the occurrence of a specified event).
- (3) The Secretary of State may vary, revoke or suspend a direction under this regulation at any time.
- (4) On the issue, variation, revocation or suspension of a direction under this regulation, the Secretary of State may take such steps as the Secretary of State considers appropriate to publicise the issue, variation, revocation or suspension of the direction.
- (5) In this regulation, “specified” means specified in a direction under this regulation.

PART 9

Information and records

Finance: reporting obligations

- 56.**—(1) A relevant firm must inform the Treasury as soon as practicable if—
- (a) it knows, or has reasonable cause to suspect, that a person—
 - (i) is a designated person, or
 - (ii) has committed an offence under any provision of Part 3 (Finance), regulation 38(3) (financial transactions in relation to Libyan oil) or regulation 52 (finance: licensing offences), and
 - (b) the information or other matter on which the knowledge or cause for suspicion is based came to it in the course of carrying on its business.
- (2) Where a relevant firm informs the Treasury under paragraph (1), it must state—
- (a) the information or other matter on which the knowledge or suspicion is based, and
 - (b) any information it holds about the person by which the person can be identified.
- (3) Paragraph (4) applies if—
- (a) a relevant firm informs the Treasury under paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
 - (b) that person is a customer of the relevant firm.
- (4) The relevant firm must also state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion.
- (5) A relevant institution must inform the Treasury without delay if that institution—
- (a) credits a frozen account or a relevant account in accordance with regulation 43(4) (finance: exceptions from prohibitions), or
 - (b) transfers funds from a frozen account or a relevant account in accordance with regulation 43(6).
- (6) A person who fails to comply with a requirement in paragraph (1), (2) or (4) commits an offence.
- (7) In this regulation, the following terms have the same meaning as they have in regulation 43—
- “designated person”;
 - “frozen account”;
 - “relevant account”;
 - “relevant institution”.

(8) For the purposes of this regulation, “relevant firm” is to be read in accordance with regulation 57.

“Relevant firm”

57.—(1) The following are relevant firms for the purposes of regulation 56 (finance: reporting obligations)—

- (a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (Permission to carry on regulated activities);
- (b) an undertaking that by way of business—
 - (i) operates a currency exchange office,
 - (ii) transmits money (or any representation of monetary value) by any means, or
 - (iii) cashes cheques that are made payable to customers;
- (c) a firm or sole practitioner that is—
 - (i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (Statutory auditors)(**a**), or
 - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)(**b**);
- (d) a firm or sole practitioner that provides to other persons, by way of business—
 - (i) accountancy services,
 - (ii) legal or notarial services,
 - (iii) advice about tax affairs, or
 - (iv) trust or company services within the meaning of paragraph (2);
- (e) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
- (f) the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence)(**c**);
- (g) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
 - (i) articles made from gold, silver, platinum or palladium, or
 - (ii) precious stones or pearls.

(2) In paragraph (1) “trust or company services” means any of the following services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company,
 - (ii) as a partner of a partnership, or
 - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) acting, or arranging for another person to act, as—
 - (i) a trustee of an express trust or similar legal arrangement, or
 - (ii) a nominee shareholder for a person.

(a) 2006 c.46.
(b) 2014 c.2.
(c) 2005 c.19.

(3) In paragraph (1)—

“estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979(a), but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.

(4) Paragraph (1)(a) and (b) is to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

(5) For the purposes of regulation 56(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

- (a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;
- (b) in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor)(b);
- (c) in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;
- (d) in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;
- (e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.

Finance: powers to request information

58.—(1) The Treasury may request a designated person to provide information about—

- (a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or
- (b) any disposal of such funds or economic resources.

(2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—

- (a) by the designated person, or
- (b) for the benefit of the designated person.

(3) For the purposes of paragraph (2), expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible.

(4) The power in paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of any provision of Part 3 (Finance).

(5) The Treasury may request a person acting under a Treasury licence to provide information about—

- (a) funds or economic resources dealt with under the licence, or
- (b) funds or economic resources made available under the licence.

(a) 1979 c.38. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), Schedule 1, paragraph 40; the Planning (Consequential Provisions) Act 1990 (c.11), Schedule 2, paragraph 42; the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), Schedule 2, paragraph 28; the Planning Act (Northern Ireland) 2011 (c.25), Schedule 6, paragraph 21; the Enterprise and Regulatory Reform Act 2013 (c.24), section 70; S.I. 1991/1220; S.I. 1991/2684; S.S.I. 2000/121 and S.I. 2001/1283.

(b) Section 1210 was amended by S.I. 2008/565; S.I. 2008/1950; S.I. 2011/99; S.I. 2012/1809; S.I. 2013/3115; S.I. 2017/516; and S.I. 2017/1164; and it is prospectively amended by S.I. 2019/177.

(6) The Treasury may request a person to provide information within paragraph (7) if the Treasury believe that the person may be able to provide the information.

(7) Information within this paragraph is such information as the Treasury may reasonably require for the purpose of—

- (a) establishing for the purposes of any provision of Part 3 (Finance)—
 - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person,
 - (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person, or
 - (iii) the nature of any financial transactions entered into by a designated person;
- (b) monitoring compliance with or detecting evasion of—
 - (i) any provision of Part 3,
 - (ii) regulation 38 (financial transactions in relation to Libyan oil aboard UN designated ships);
 - (iii) regulation 56 (finance: reporting obligations), or
 - (iv) any condition of a Treasury licence;
- (c) detecting or obtaining evidence of the commission of an offence under Part 3, regulation 38(3), regulation 52 (finance: licensing offences) or regulation 56.

(8) The Treasury may specify the way in which, and the period within which, information is to be provided.

(9) If no such period is specified, the information which has been requested must be provided within a reasonable time.

(10) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.

(11) Information requested under this regulation may relate to any period of time during which a person is, or was, a designated person.

(12) Information requested by virtue of paragraph (1)(b), (2) or (7)(a)(iii) may relate to any period before a person became a designated person (as well as, or instead of, any subsequent period).

(13) Expressions used in this regulation have the same meaning as they have in Part 3.

Finance: production of documents

59.—(1) A request under regulation 58 (finance: powers to request information) may include a request to produce specified documents or documents of a specified description.

(2) Where the Treasury request that documents be produced, the Treasury may—

- (a) take copies of or extracts from any document so produced,
- (b) request any person producing a document to give an explanation of it, and
- (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
 - (i) in the case of a partnership, a present or past partner or employee of the partnership, or
 - (ii) in any other case, a present or past officer or employee of the body concerned,to give such an explanation.

(3) Where the Treasury request a designated person or a person acting under a Treasury licence to produce documents, that person must—

- (a) take reasonable steps to obtain the documents (if they are not already in the person's possession or control);

- (b) keep the documents under the person’s possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

(4) In this regulation “designated person” means a designated person within the meaning of regulation 11 or 17.

Finance: information offences

60.—(1) A person commits an offence if that person—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request under regulation 58 (finance: powers to request information);
- (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
- (c) with intent to evade any provision of regulation 58 or 59 (finance: production of documents), destroys, mutilates, defaces, conceals or removes any document;
- (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under regulation 58 or 59.

(2) Where a person is convicted of an offence under this regulation, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

Trade: application of information powers in CEMA

61.—(1) Section 77A(a) of CEMA applies in relation to a person carrying on a relevant activity as it applies in relation to a person concerned in the importation or exportation of goods but as if—

- (a) in subsection (1), the reference to a person concerned in the importation or exportation of goods for which for that purpose an entry is required by regulation 5 of the Customs Controls on Importation of Goods Regulations 1991(b) or an entry or specification is required by or under CEMA were to a person carrying on a relevant activity;
- (b) any other reference to importation or exportation were to a relevant activity;
- (c) any reference to goods were to the goods, technology, services or funds to which the relevant activity relates.

(2) For the purposes of paragraph (1), a “relevant activity” means an activity—

- (a) which would, unless done under the authority of a trade licence, constitute a contravention of any prohibition in—
 - (i) Chapter 1 or 2 of Part 5 (Trade) except the prohibitions in regulations 23 and 24 (exports and imports), or
 - (ii) regulation 35 (transporting etc. Libyan oil in relation to UN designated ships) or 37 (bunkering or ship supply services), or
- (b) which would constitute a contravention of a prohibition in regulation 33 and 39(1) (circumventing etc. prohibitions).

General trade licences: records

62.—(1) This regulation applies in relation to a person (“P”) who does any act authorised by a general licence issued under regulation 49 (trade licences) (“the licence”).

(a) Section 77A was inserted by the Finance Act 1987 (c.16), section 10 and amended by S.I. 1992/3095.
(b) S.I. 1991/2724 is amended by S.I. 1992/3095; S.I. 1993/3014; and S.I. 2011/1043 and is prospectively revoked by S.I. 2018/1247.

(2) P must keep a register or record containing such details as may be necessary to allow the following information to be identified in relation to each act done under the authority of the licence—

- (a) a description of the act;
- (b) a description of any goods, technology, services or funds to which the act relates;
- (c) the date of the act or the dates between which the act took place;
- (d) the quantity of any goods or funds to which the act relates;
- (e) P's name and address;
- (f) the name and address of any consignee of goods to which the act relates or any recipient of technology, services or funds to which the act relates;
- (g) in so far as it is known to P, the name and address of the end-user of the goods, technology, services or funds to which the act relates;
- (h) if different from P, the name and address of the supplier of any goods to which the act relates;
- (i) any further information required by the licence.

(3) The register or record relating to an act must be kept until the end of the calendar year in which the register or record is created and for a further period of 4 years from the end of that calendar year.

(4) P must notify the Secretary of State in writing of P's name and the address at which the register or record may be inspected, and must make a further such notification if those details change.

(5) A notification under paragraph (4) must be given no later than 30 days after—

- (a) P first does any act authorised by the licence, or
- (b) there is any change to the details previously notified.

(6) A person who fails to comply with a requirement in paragraph (2), (3) or (4) commits an offence.

General trade licences: inspection of records

63.—(1) A person authorised by the Secretary of State or the Commissioners (an “official”) may at any reasonable hour enter premises notified under regulation 62(4) (general trade licences: records) for the purposes of monitoring compliance with, or detecting evasion of, regulation 62(2) or (3).

(2) An official may require any person on the premises to produce any register or record required to be kept under regulation 62, or any document included in such a register or record, that is in the person's possession or control.

(3) An official may inspect and copy any such register, record or document.

(4) An official must, if requested to do so, produce documentary evidence that he or she is authorised to exercise a power conferred by this regulation.

(5) A person commits an offence if, without reasonable excuse, the person—

- (a) intentionally obstructs an official in the performance of any of the official's functions under this regulation, or
- (b) fails to produce a register, record or document when reasonably required to do so by an official under this regulation.

Disclosure of information

64.—(1) The Secretary of State, the Treasury or the Commissioners may, in accordance with this regulation, disclose—

- (a) any information obtained under or by virtue of Part 8 (Exceptions and licences), this Part or Part 11 (Maritime enforcement), or
- (b) any information held in connection with—
 - (i) anything done under or by virtue of Part 2 (Designation of persons), Part 3 (Finance), Part 5 (Trade), Part 6 (UN designated Ships) or Part 7 (Aircraft), or
 - (ii) any exception or licence under Part 8 or anything done in accordance with such an exception or under the authority of such a licence.

(2) Information referred to in paragraph (1) may be disclosed for, or in connection with, any of the following purposes—

- (a) any purpose stated in regulation 4 (purposes);
- (b) the exercise of functions under these Regulations;
- (c) facilitating, monitoring or ensuring compliance with these Regulations;
- (d) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in the United Kingdom—
 - (i) for an offence under any provision of these Regulations,
 - (ii) for an offence under CEMA in connection with a prohibition mentioned in regulation 23 or 24 (exports or imports), or
 - (iii) in relation to a monetary penalty under section 146 of the Policing and Crime Act 2017(a) (breach of financial sanctions legislation);
- (e) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings in any of the Channel Islands, the Isle of Man or any British overseas territory for an offence—
 - (i) under a provision in any such jurisdiction that is similar to a provision of these Regulations, or
 - (ii) in connection with a prohibition in any such jurisdiction that is similar to a prohibition referred to in sub-paragraph (d)(ii);
- (f) compliance with an international obligation(b);
- (g) facilitating the exercise by an authority outside the United Kingdom or by an international organisation of functions which correspond to functions under these Regulations.

(3) Information referred to in paragraph (1) may be disclosed to the following persons—

- (a) a police officer;
- (b) any person holding or acting in any office under or in the service of—
 - (i) the Crown in right of the Government of the United Kingdom,
 - (ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government,
 - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark,
 - (iv) the Government of the Isle of Man, or
 - (v) the Government of any British overseas territory;
- (c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;
- (d) the Scottish Legal Aid Board;
- (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission or the Isle of Man Financial Services Authority;
- (f) any other regulatory body (whether or not in the United Kingdom);

(a) 2017 c.3.

(b) Section 1(8) of the Act defines an “international obligation” as an obligation of the United Kingdom created or arising by or under any international agreement.

- (g) any organ of the United Nations;
- (h) the Council of the European Union, the European Commission or the European External Action Service;
- (i) the Government of any country;
- (j) any other person, where the Secretary of State, the Treasury or the Commissioners (as the case may be) considers that it is appropriate to disclose the information.

(4) Information referred to in paragraph (1) may be disclosed to any person with the consent of a person who, in their own right, is entitled to the information.

(5) In paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

(6) In paragraph (1)(b)—

- (a) the reference to information includes information obtained at a time when any provision of these Regulations is not in force, and
- (b) references to a licence under Part 8 include—
 - (i) a licence or authorisation which is treated as if it were a licence which had been issued under that Part, and
 - (ii) a licence which is deemed to have been issued under that Part.

Part 9: supplementary

65.—(1) A disclosure of information under regulation 64 (disclosure of information) does not breach any restriction on such disclosure imposed by statute or otherwise.

(2) But nothing in that regulation authorises a disclosure that—

- (a) contravenes the data protection legislation, or
- (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016(a).

(3) Nothing in this Part is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.

(4) Regulation 64 does not limit the circumstances in which information may be disclosed apart from that regulation.

(5) Nothing in this Part limits any conditions which may be contained in a licence under Part 8.

(6) In this regulation—

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act)(b);

“privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

(a) 2016 c.25. Amendments have been made by the Policing and Crime Act 2017, Schedule 9, paragraph 74; the Data Protection Act 2018 (c.12), Schedule 19, paragraphs 198-203; the Counter-Terrorism and Border Security Act 2019 (c. 3) Schedule 4, paragraph 33; the Sanctions and Anti-Money Laundering Act 2018, section 59(4), Schedule 3, paragraph 7; the Crime (Overseas Production Orders) Act 2019 (c. 5) section 16; S.I. 2018/378; S.I. 2018/652; S.I. 2018/905; S.I. 2018/1123; S.I. 2019/419; S.I. 2019/742; S.I. 2019/ 939; and S.I. 2020/661. Saving provisions are made by S.I. 2017/859.

(b) 2018 c.12. There are amendments to this Act but none are relevant to these Regulations.

PART 10

Enforcement

Penalties for offences

66.—(1) A person who commits an offence under any provision of Part 3 (Finance), regulation 36 (port access or entry for UN designated ships), regulation 38(3) (financial transactions in relation to Libyan oil aboard UN designated ships), regulation 39(4) (circumvention of regulation 38), regulation 42 (movement of aircraft), or regulation 52 (finance: licensing offences) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine (or both).

(2) A person who commits an offence under any provision of Part 5 (Trade), regulation 35 (transporting etc. Libyan oil in relation to UN designated ships), regulation 37 (bunkering or ship supply services) or regulation 39(2) (circumvention of regulations 35 and 37) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine (or both).

(3) A person who commits an offence under regulation 9(6) (confidentiality), regulation 53 (trade: licensing offences), regulation 54 (port access or entry for UN designated ships: licensing offences), or regulation 62(6) or 63(5) (information offences in connection with general trade licences) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

(4) A person who commits an offence under regulation 56(6) (finance: reporting obligations) or 60 (information offences in connection with Part 3) is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

(5) In relation to an offence committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020(a) comes into force, the reference in each of paragraphs (1)(a), (2)(a) and (3)(a) to 12 months is to be read as a reference to 6 months.

Liability of officers of bodies corporate etc.

67.—(1) Where an offence under these Regulations, committed by a body corporate—

- (a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or
- (b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

- (a) in the case of a partnership, to a partner;
- (b) in the case of an unincorporated body other than a partnership—
 - (i) where the body’s affairs are managed by its members, to a member of the body;
 - (ii) in any other case, to a member of the governing body.

(4) Section 171(4) of CEMA (which is a provision similar to this regulation) does not apply to any offence under these Regulations to which that provision would, in the absence of this paragraph, apply.

Jurisdiction to try offences

68.—(1) Where an offence under Part 3 (Finance), Part 7 (Aircraft), or regulation 9(6) (confidentiality), regulation 36 (port access or entry for UN designated ships), regulation 38(3) (financial transactions relating in relation to Libyan oil aboard UN designated ships), 39(4) (circumvention of regulation 38), regulation 52 (finance: licensing offences), regulation 54 (port access or entry for UN designated ships: licensing offences), regulation 56(6) (finance: reporting obligations) or regulation 60 (information offences in connection with Part 3) is committed in the United Kingdom—

- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

(2) Where an offence under these Regulations is committed outside the United Kingdom—

- (a) proceedings for the offence may be taken at any place in the United Kingdom, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

(3) In the application of paragraph (2) to Scotland, any such proceedings against a person may be taken—

- (a) in any sheriff court district in which the person is apprehended or is in custody, or
- (b) in such sheriff court district as the Lord Advocate may determine.

(4) In paragraph (3) “sheriff court district” is to be read in accordance with the Criminal Procedure (Scotland) Act 1995 (see section 307(1) of that Act)(b).

(a) 2020 c. 17.
(b) 1995 c.46.

Procedure for offences by unincorporated bodies

69.—(1) Paragraphs (2) and (3) apply if it is alleged that an offence under these Regulations has been committed by an unincorporated body (as opposed to by a member of the body).

(2) Proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own name.

(3) For the purposes of proceedings for such an offence brought against an unincorporated body—

- (a) rules of court relating to the service of documents have effect as if the body were a body corporate;
- (b) the following provisions apply as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925^(a) and Schedule 3 to the Magistrates' Courts Act 1980^(b);
 - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945^(c) and Article 166 of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981^(d).

(4) A fine imposed on an unincorporated body on its conviction of an offence under these Regulations is to be paid out of the funds of the body.

Time limit for proceedings for summary offences

70.—(1) Proceedings for an offence under these Regulations which is triable only summarily may be brought within the period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor's knowledge.

(2) But such proceedings may not be brought by virtue of paragraph (1) more than 3 years after the commission of the offence.

(3) A certificate signed by the prosecutor as to the date on which the evidence in question came to the prosecutor's knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(4) In relation to proceedings in Scotland—

- (a) section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date of commencement of summary proceedings) applies for the purposes of this regulation as it applies for the purposes of that section, and
- (b) references in this regulation to the prosecutor are to be treated as references to the Lord Advocate.

Trade enforcement: application of CEMA

71.—(1) Where the Commissioners investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that a relevant offence has been committed, or
- (b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter.

(a) 1925 c.86. Section 33 was amended by the Statute Law (Repeals) Act 2004 (c.14), section 1(1) and Schedule 1, Part 17. Other amendments have been made to section 33 that are not relevant to these Regulations.

(b) 1980 c.43. Amendments have been made to Schedule 3 that are not relevant to these Regulations.

(c) 1945 c.15 (N.I.).

(d) S.I. 1981/1675 (N.I. 26).

- (2) In paragraph (1) “assigned matter” has the meaning given by section 1(1) of CEMA(a).
- (3) In this regulation a “relevant offence” means an offence under—
- (a) Part 5 (Trade),
 - (b) regulation 35 (transporting etc. Libyan oil in relation to UN designated ships),
 - (c) regulation 37 (bunkering or ship supply services),
 - (d) regulation 39(2) (circumventing etc. prohibitions),
 - (e) regulation 53 (trade: licensing offences),
 - (f) regulation 62(6) (general trade licences: records), or
 - (g) regulation 63(5) (general trade licences: inspection of records).
- (4) Section 138 of CEMA(b) (arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which the person is liable to be arrested under the customs and excise Acts(c), but as if—
- (a) any reference to an offence under, or for which a person is liable to be arrested under, the customs and excise Acts were to a relevant offence;
 - (b) in subsection (2), the reference to any person so liable were to a person who has committed, or whom there are reasonable grounds to suspect of having committed, a relevant offence.
- (5) The provisions of CEMA mentioned in paragraph (6) apply in relation to proceedings for a relevant offence as they apply in relation to proceedings for an offence under the customs and excise Acts, but as if—
- (a) any reference to the customs and excise Acts were to any of the provisions mentioned in paragraph (3)(a) to (g);
 - (b) in section 145(6), the reference to an offence for which a person is liable to be arrested under the customs and excise Acts were to a relevant offence;
 - (c) in section 151, the reference to any penalty imposed under the customs and excise Acts were to any penalty imposed under these Regulations in relation to a relevant offence;
 - (d) in section 154(2)—
 - (i) the reference to proceedings relating to customs or excise were to proceedings under any of the provisions mentioned in paragraph (3)(a) to (g), and
 - (ii) the reference to the place from which any goods have been brought included a reference to the place to which goods have been exported, supplied or delivered or the place to or from which technology has been transferred.
- (6) The provisions of CEMA are sections 145, 146, 147, 148(1), 150, 151, 152, 154 and 155(d) (legal proceedings).

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- (a) The definition of “assigned matter” in section 1(1) of CEMA was amended by the Commissioners for Revenue and Customs Act 2005 (c.11), Schedule 4, paragraph 22(a); the Scotland Act 2012 (c.11), section 24(7); and the Wales Act 2014 (c.29), section 7(1).
 - (b) Section 138 of CEMA was amended by the Police and Criminal Evidence Act 1984 (c.60), section 114(1), Schedule 6, paragraph 37, and Schedule 7, Part 1; the Finance Act 1988 (c.39), section 11; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 7, paragraph 54; S.I. 1989/1341 (N.I. 12); and S.I. 2007/288.
 - (c) “the customs and excise Acts” is defined in section 1 of CEMA.
 - (d) Section 145 of CEMA was amended by the Police and Criminal Evidence Act 1984, section 114(1); the Commissioners for Revenue and Customs Act 2005 (c.11), Schedule 4, paragraph 23(a); and S.I. 2014/834. Section 147 was amended by the Magistrates Courts Act 1980 (c.43), section 154 and Schedule 7, paragraph 176; the Criminal Justice Act 1982 (c.48), section 77, Schedule 14, paragraph 42; the Finance Act 1989 (c.26), section 16(2); and the Criminal Justice Act 2003 (c.44), section 41, Schedule 3, paragraph 50. Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 26, and section 52, Schedule 5. Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, section 50, Schedule 4, paragraph 27, and section 52, Schedule 5.

Trade offences in CEMA: modification of penalty

72.—(1) Paragraph (2) applies where a person is guilty of an offence under section 50(2) or (3) of CEMA in connection with a prohibition mentioned in regulation 24 (import of arms and related materiel and internal repression goods).

(2) Where this paragraph applies, the reference to 7 years in section 50(4)(b) of CEMA(a) is to be read as a reference to 10 years.

(3) Paragraph (4) applies where a person is guilty of an offence under section 68(2) of CEMA in connection with a prohibition mentioned in regulation 23(1) (export of restricted goods).

(4) Where this paragraph applies, the reference to 7 years in section 68(3)(b) of CEMA(b) is to be read as a reference to 10 years.

(5) Paragraph (6) applies where a person is guilty of an offence under section 170(2) of CEMA in connection with a prohibition mentioned in regulation 23(1) or 24 (exports and imports).

(6) Where this paragraph applies, the reference to 7 years in section 170(3)(b) of CEMA(c) is to be read as a reference to 10 years.

Application of Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005

73. Chapter 1 of Part 2 of the Serious Organised Crime and Police Act 2005 (investigatory powers)(d) applies to an offence under Part 3 (Finance), regulation 38 (financial transactions relating to Libyan oil) or regulation 52 (finance: licensing offences).

Monetary penalties

74. Each provision in Part 5 (Trade) which contains a prohibition imposed for a purpose mentioned in section 3(1) or (2) of the Act is to be regarded as not being financial sanctions legislation for the purposes of Part 8 of the Policing and Crime Act 2017 (monetary penalties)(e).

PART 11

Maritime enforcement

Exercise of maritime enforcement powers

75.—(1) A maritime enforcement officer may, for a purpose mentioned in paragraph (2) or (3), exercise any of the maritime enforcement powers in relation to—

- (a) a British ship in foreign waters or international waters,
- (b) a ship without nationality in international waters, or
- (c) a foreign ship in international waters,

and a ship within sub-paragraph (a), (b) or (c) is referred to in this Part as “a relevant ship”.

(2) The maritime enforcement powers may be exercised for the purpose of enforcing any of the following—

- (a) the prohibition in regulation 23(1) (export of restricted goods);

(a) The words “7 years” were inserted in section 50(4)(b) of CEMA by the Finance Act 1988, section 12.

(b) The words “7 years” were inserted in section 68(3)(b) of CEMA by the Finance Act 1988, section 12.

(c) The words “7 years” were inserted in section 170(3)(b) of CEMA by the Finance Act 1988, section 12.

(d) 2005 c.15. Chapter 1 of Part 2 has been amended by the Terrorism Act 2006 (c.11), section 33(3) and (4); the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33), sections 26(2) and 30(2) and Schedules 3 and 5; the Bribery Act 2010 (c.23), section 17(2) and Schedule 1; the Criminal Justice and Licensing (Scotland) Act 2010 (asp.13), section 203 and Schedule 7, paragraph 77; the Crime and Courts Act 2013 (c.22), section 15 and Schedule 8, paragraph 157 and 159; the Criminal Finances Act 2017 (c.22), section 51(1); the Sanctions and Anti-Money Laundering Act 2018, section 59(4) and Schedule 3, paragraph 4; S.I. 2006/1629; and S.I. 2014/834.

(e) See section 143(4)(f) and (4A), as inserted by the Sanctions and Anti-Money Laundering Act 2018, Schedule 3, paragraph 8(1) and (3).

- (b) a prohibition in regulation 24 (import of arms and related materiel etc.);
- (c) a prohibition in regulation 25(1) (supply and delivery of certain goods);
- (d) a prohibition in regulation 26(1) (making available or acquiring certain goods and technology);
- (e) a prohibition in regulation 27(1) (transfer of restricted technology);
- (f) a prohibition in relation 35 (transporting etc. Libyan oil in relation to UN designated ships);
- (g) a prohibition imposed by a condition of a trade licence in relation to a prohibition mentioned in any of sub-paragraphs (a) to (f).

(3) The maritime enforcement powers may also be exercised in relation to a relevant ship for the purpose of—

- (a) investigating the suspected carriage of relevant goods on the ship, or
- (b) preventing the continued carriage on the ship of goods suspected to be relevant goods.

(4) In this Part, “the maritime enforcement powers” are the powers conferred by regulations 77 (power to stop, search, board etc.) and 78 (seizure power).

(5) This regulation is subject to regulation 79 (restrictions on exercise of maritime enforcement powers).

Maritime enforcement officers

76.—(1) The following persons are “maritime enforcement officers” for the purposes of this Part—

- (a) a commissioned officer of any of Her Majesty’s ships;
- (b) a member of the Ministry of Defence Police (within the meaning of section 1 of the Ministry of Defence Police Act 1987(a));
- (c) a constable—
 - (i) who is a member of a police force in England and Wales,
 - (ii) within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012(b), or
 - (iii) who is a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
- (d) a special constable—
 - (i) appointed under section 27 of the Police Act 1996(c),
 - (ii) appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012, or
 - (iii) in Northern Ireland, appointed by virtue of provision incorporating section 79 of the Harbours, Docks, and Piers Clauses Act 1847(d);
- (e) a constable who is a member of the British Transport Police Force;
- (f) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013(e), or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964(f);

(a) 1987 c.4. Section 1 was amended by the Police Act 1996 (c.16), Schedule 7, paragraph 41; the Police (Northern Ireland) Act 1998 (c.32), Schedule 4, paragraph 16; the Police Reform Act 2002 (c.30), section 79(3); and S.I. 2013/602.

(b) 2012 asp 8.

(c) 1996 c.16. Section 27 was amended by the Police and Justice Act 2006 (c.48), Schedule 2, paragraph 23; the Policing and Crime Act 2009 (c.26), Schedule 7, paragraphs 1 and 6; and the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 16, paragraph 26.

(d) 1847 c.27. Section 79 was amended by S.I. 2006/2167.

(e) 2013 c.23.

(f) 1964 c.40. Section 16 was amended by section 29(2) of the Wales Act 2017 (c.4); S.I. 1970/1681; and S.I. 1999/672. Other amendments have been made to section 16 that are not relevant to these Regulations.

- (g) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act)(a);
- (h) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a maritime enforcement officer under this Part.

(2) In this regulation, “a designated NCA officer” means a National Crime Agency officer who is either or both of the following—

- (a) an officer designated under section 10 of the Crime and Courts Act 2013(b) as having the powers and privileges of a constable;
- (b) an officer designated under that section as having the powers of a general customs official.

Power to stop, board, search etc.

77.—(1) This regulation applies if a maritime enforcement officer has reasonable grounds to suspect that a relevant ship is carrying prohibited goods or relevant goods.

(2) The officer may—

- (a) stop the ship;
- (b) board the ship;
- (c) for the purpose of exercising a power conferred by paragraph (3) or regulation 78 (seizure power), require the ship to be taken to, and remain in, a port or anchorage in the United Kingdom or any other country willing to receive it.

(3) Where the officer boards a ship by virtue of this regulation, the officer may—

- (a) stop any person found on the ship and search that person for—
 - (i) prohibited goods or relevant goods, or
 - (ii) any thing that might be used to cause physical injury or damage to property or to endanger the safety of any ship;
- (b) search the ship, or any thing found on the ship (including cargo) for prohibited goods or relevant goods.

(4) The officer may—

- (a) require a person found on a ship boarded by virtue of this regulation to provide information or produce documents;
- (b) inspect and copy such information or documents.

(5) The officer may exercise a power conferred by paragraph (3)(a)(i) or (b) only to the extent reasonably required for the purpose of discovering prohibited goods or relevant goods.

(6) The officer may exercise the power conferred by paragraph (3)(a)(ii) in relation to a person only where the officer has reasonable grounds to believe that the person might use a thing to cause physical injury or damage to property or to endanger the safety of any ship.

(7) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Seizure power

78.—(1) This regulation applies if a maritime enforcement officer is lawfully on a relevant ship (whether in exercise of the powers conferred by regulation 77 (power to stop, board, search etc.) or otherwise).

(a) 2009 c.11. Designated customs officials are designated, as either a general customs official or a customs revenue official, under sections 3 and 11 of this Act respectively.

(b) 2013 c.22.

(2) The officer may seize any of the following which are found on the ship, in any thing found on the ship, or on any person found on the ship—

- (a) goods which the officer has reasonable grounds to suspect are prohibited goods or relevant goods, or
- (b) things within regulation 77(3)(a)(ii).

(3) The officer may use reasonable force, if necessary, in the exercise of any power conferred by this regulation.

Restrictions on exercise of maritime enforcement powers

79.—(1) The authority of the Secretary of State is required before any maritime enforcement power is exercised in reliance on regulation 75 (exercise of maritime enforcement powers) in relation to—

- (a) a British ship in foreign waters, or
- (b) a foreign ship in international waters.

(2) In relation to a British ship in foreign waters other than the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant British possession, the Secretary of State may give authority under paragraph (1) only if the State in whose waters the power would be exercised consents to the exercise of the power.

(3) In relation to a foreign ship in international waters, the Secretary of State may give authority under paragraph (1) only if—

- (a) the home state has requested the assistance of the United Kingdom for a purpose mentioned in regulation 75(2) or (3),
- (b) the home state has authorised the United Kingdom to act for such a purpose, or
- (c) the United Nations Convention on the Law of the Sea 1982(a) or a UN Security Council Resolution otherwise permits the exercise of the power in relation to the ship.

Interpretation of Part 11

80.—(1) Subject to paragraph (2), any expression used in this Part and in section 19 or 20 of the Act has the same meaning in this Part as it has in section 19 or (as the case may be) section 20 of the Act.

(2) For the purpose of interpreting any reference to “prohibited goods” or “relevant goods” in this Part, any reference in section 19 or 20 of the Act to a “relevant prohibition or requirement” is to be read as a reference to any prohibition specified in regulation 75(2)(a) to (g) (exercise of maritime enforcement powers).

PART 12

Supplementary and final provision

Notices

81.—(1) This regulation applies in relation to a notice required by regulation 51 (licences: general provisions) to be given to a person.

(2) The notice may be given to an individual—

- (a) by delivering it to the individual,
- (b) by sending it to the individual by post addressed to the individual at his or her usual or last-known place of residence or business, or

(a) Command 8941.

- (c) by leaving it for the individual at that place.
- (3) The notice may be given to a person other than an individual—
 - (a) by sending it by post to the proper officer of the body at its principal office, or
 - (b) by addressing it to the proper officer of the body and leaving it at that office.
- (4) The notice may be given to the person by other means, including by electronic means, with the person’s consent.
- (5) In this regulation, the reference in paragraph (3) to a “principal office”—
 - (a) in relation to a registered company, is to be read as a reference to the company’s registered office;
 - (b) in relation to a body incorporated or constituted under the law of a country other than the United Kingdom, includes a reference to the body’s principal office in the United Kingdom (if any).
- (6) In this regulation—
 - “proper officer”—
 - (a) in relation to a body other than a partnership, means the secretary or other executive officer charged with the conduct of the body’s general affairs, and
 - (b) in relation to a partnership, means a partner or a person who has the control or management of the partnership business;
 - “registered company” means a company registered under the enactments relating to companies for the time being in force in the United Kingdom.

Article 20 of the Export Control Order 2008

82. Article 20 of the Export Control Order 2008 (embargoed destinations) is not to be taken to prohibit anything prohibited by Part 5 (Trade).

Trade: overlapping offences

83. A person is not to be taken to commit an offence under the Export Control Order 2008 if the person would, in the absence of this regulation, commit an offence under both—

- (a) article 34, 35, 37 or 38 of that Order^(a), and
- (b) any provision of Part 5 (Trade) or regulation 37 (bunkering or ship supply services), regulation 53 (trade: licensing offences), 62(6) or 63(5) (information offences in connection with general trade licences).

Amendment of the United Nations and European Union Financial Sanctions (Linking) Regulations 2017

84. In the Schedule to the United Nations and European Union Financial Sanctions (Linking) Regulations 2017^(b), omit the following row from the table—

“United Nations Security Council Resolution 1970 (2011)	Council Regulation (EU) 2016/44 of 18th January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011.”
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(a) Articles 37 and 38 are prospectively amended by S.I. 2019/137. Article 37 has been amended by S.I. 2012/1910. Article 38 has been amended by S.I. 2017/85.
 (b) S.I. 2017/478, to which there are amendments not relevant to these Regulations.

Revocations

85.—(1) Council Regulation (EU) 2016/44 of 18 January 2016 concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011 is revoked.

(2) The Libya (European Union Financial Sanctions) Regulations 2016(a) are revoked.

(3) The Libya (Financial Sanctions) Order 2011(b) is revoked.

(4) The Export Control (Libya Sanctions) Order 2016(c) is revoked.

Transitional provision: Treasury licences

86.—(1) Paragraphs (2) to (4) apply to a licence which—

(a) was granted, or deemed to be granted, by the Treasury under—

(i) article 9 of the 2011 Order, or

(ii) regulation 9 of the 2016 Regulations, and

(b) was in effect immediately before IP completion day, and

(c) authorises conduct which would (on and after IP completion day, and in the absence of paragraphs (2) to (4)) be prohibited under Part 3 (Finance),

and such a licence is referred to in this regulation as “an existing financial sanctions licence”.

(2) An existing financial sanctions licence which authorises an act which would otherwise be prohibited has effect on and after IP completion day as if it had been issued by the Treasury under regulation 48(1) (Treasury licences).

(3) Any reference in an existing financial sanctions licence to—

(a) the 2011 Order,

(b) the 2016 Regulations, or

(c) the EU Libya Regulation,

is to be treated on and after IP completion day as a reference to these Regulations.

(4) Any reference in an existing financial sanctions licence to a prohibition in—

(a) the 2011 Order,

(b) the 2016 Regulations,

(c) the EU Libya Regulation, or

(d) Council Regulation (EU) No 204/2011(d),

is to be treated on and after IP completion day as a reference to the corresponding prohibition in Part 3 (Finance).

(5) Paragraph (6) applies where—

(a) an application for a licence, or for the variation of a licence, under the 2011 Order or 2016 Regulations was made before IP completion day,

(b) the application is for the authorisation of conduct which would (on and after IP completion day) be prohibited under Part 3, and

(c) a decision to grant or refuse the application has not been made before that date.

(6) The application is to be treated on and after IP completion day as an application for a licence, or for the variation of a licence (as the case may be), under regulation 48(1).

(7) In this regulation—

(a) S.I. 2016/45 as amended by S.I. 2017/560, S.I. 2017/754 and S.I. 2018/682 and prospectively amended by S.I. 2018/1149.

(b) S.I. 2011/548, as amended by S.I. 2011/605 (revoked by S.I. 2016/45), S.I. 2013/472, S.I. 2013/534, S.I. 2018/682 and S.I. 2018/1149.

(c) S.I. 2016/787 as amended by S.I. 2017/1311.

(d) OJ L 058, 3.3.2011, p.1

“the 2011 Order” means the Libya (Financial Sanctions) Order 2011;

“the 2016 Regulations” means the Libya (European Union Financial Sanctions) Regulations 2016.

Transitional provision: trade licences

87.—(1) Paragraph (2) applies in relation to each licence or authorisation granted by the Secretary of State which—

- (a) was in effect immediately before IP completion day, and
- (b) authorises an act—
 - (i) which would otherwise be prohibited by any provision of the Export Control Order 2008 except article 20 of that Order (embargoed destinations), and
 - (ii) which would (on and after IP completion day, and in the absence of paragraph (2)) be prohibited by Part 5 (Trade),

and such a licence or authorisation is referred to in this regulation as an “existing trade licence”.

(2) A licence is deemed to have been issued by the Secretary of State on IP completion day under regulation 49 (trade licences)—

- (a) disapplying every provision of Part 5 which would, in the absence of this paragraph, prohibit any act authorised by the existing trade licence, and
- (b) otherwise in the same terms as the existing trade licence.

(3) Paragraphs (4) to (6) apply to a licence or authorisation granted by the Secretary of State which—

- (a) was in effect immediately before IP completion day,
- (b) is not an existing trade licence, and
- (c) authorises an act—
 - (i) which would otherwise be prohibited by the EU Libya Regulation, and
 - (ii) which would (on and after IP completion day, and in the absence of paragraphs (4) to (6)) be prohibited by Part 5,

and such a licence or authorisation is referred to in this regulation as “an existing trade sanctions licence”.

(4) An existing trade sanctions licence has effect on and after IP completion day as if it were a licence which had been issued by the Secretary of State under regulation 49.

(5) Any reference in an existing trade sanctions licence to a provision of the Export Control (Libya Sanctions) Order 2016 or the Export Control Order 2008 is to be treated on and after IP completion day as a reference to the corresponding provision of these Regulations (if any).

(6) Any reference in an existing trade sanctions licence to a prohibition in the EU Libya Regulation is to be treated on and after IP completion day as a reference to the corresponding prohibition in Part 5.

Transitional provision: pending applications for trade licences

88.—(1) Paragraph (2) applies where—

- (a) an application was made before IP completion day for a licence or authorisation under or pursuant to the Export Control Order 2008,
- (b) the application is for authorisation of an act prohibited by Part 5 (Trade), and
- (c) a decision to grant or refuse the application has not been made before IP completion day.

(2) The application is to be treated on and after IP completion day as including an application for a licence under regulation 49 (trade licences).

(3) Paragraph (4) applies where—

- (a) an application was made before IP completion day for a licence or authorisation under the Export Control (Libya Sanctions) Order 2016 or the EU Libya Regulation,
 - (b) the application is for authorisation of an act prohibited by Part 5, and
 - (c) a decision to grant or refuse the application has not been made before IP completion day.
- (4) The application is to be treated on and after IP completion day as an application for a licence under regulation 49.

Transitional provision: prior obligations etc.

89.—(1) Where—

- (a) a person was named in Annex II, III or VI of the EU Libya Regulation immediately before IP completion day, and
- (b) the person is a designated person immediately before IP completion day,

any reference in a provision mentioned in paragraph (3) to the date on which a person became a designated person is to be read as a reference to the original listing date.

(2) Where, immediately before IP completion day, a person was named for the purposes of paragraph 17 of resolution 1970 by the Security Council or the Committee, the reference in each of the provisions mentioned in paragraph (3) to the date on which a person became a designated person is a reference to the date on which the person was so named.

(3) The provisions referred to in paragraphs (1) and (2) are—

- (a) regulation 19(4)(b) (partial asset-freeze prohibition in relation to making funds available to designated persons),
- (b) regulation 43(5) (finance: exceptions from prohibitions), and
- (c) paragraphs 5(b)(i), 11(a) and 12(a) of Schedule 4 (Treasury licences: purposes).

(4) In this regulation—

“designated person” means a designated person within the meaning of regulation 11 or 17;

“original listing date” means—

- (a) where the person was named in Annex II, III or VI of Council Regulation (EU) No 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya immediately before the repeal of that Regulation, the date on which that person was named in Annex II, III or VI of that Regulation;
- (b) otherwise, the date on which the person was named in Annex II, III or VI of the EU Libya Regulation.

29th December 2020

Nigel Adams
Minister of State
Foreign, Commonwealth and Development Office

SCHEDULES

SCHEDULE 1

Regulation 7(3)

Rules for interpretation of regulation 7(2)

Application of Schedule

1.—(1) The rules set out in the following paragraphs of this Schedule apply for the purpose of interpreting regulation 7(2).

(2) They also apply for the purpose of interpreting this Schedule.

Joint interests

2. If two or more persons each hold a share or right jointly, each of them is treated as holding that share or right.

Joint arrangements

3.—(1) If shares or rights held by a person and shares or rights held by another person are the subject of a joint arrangement between those persons, each of them is treated as holding the combined shares or rights of both of them.

(2) A “joint arrangement” is an arrangement between the holders of shares or rights that they will exercise all or substantially all the rights conferred by their respective shares or rights jointly in a way that is pre-determined by the arrangement.

(3) “Arrangement” has the meaning given by paragraph 12.

Calculating shareholdings

4.—(1) In relation to a person who has a share capital, a reference to holding “more than 50% of the shares” in that person is to holding shares comprised in the issued share capital of that person of a nominal value exceeding (in aggregate) 50% of that share capital.

(2) In relation to a person who does not have a share capital—

- (a) a reference to holding shares in that person is to holding a right or rights to share in the capital or, as the case may be, profits of that person;
- (b) a reference to holding “more than 50% of the shares” in that person is to holding a right or rights to share in more than 50% of the capital or, as the case may be, profits of that person.

Voting rights

5.—(1) A reference to the voting rights in a person is to the rights conferred on shareholders in respect of their shares (or, in the case of a person not having a share capital, on members) to vote at general meetings of the person on all or substantially all matters.

(2) In relation to a person that does not have general meetings at which matters are decided by the exercise of voting rights—

- (a) a reference to holding voting rights in the person is to be read as a reference to holding rights in relation to the person that are equivalent to those of a person entitled to exercise voting rights in a company;
- (b) a reference to holding “more than 50% of the voting rights” in the person is to be read as a reference to holding the right under the constitution of the person to block changes to the overall policy of the person or to the terms of its constitution.

6. In applying regulation 7(2) and this Schedule, the voting rights in a person are to be reduced by any rights held by the person itself.

Rights to appoint or remove members of the board

7. A reference to the right to appoint or remove a majority of the board of directors of a person is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all or substantially all matters.

8. A reference to a board of directors, in the case of a person who does not have such a board, is to be read as a reference to the equivalent management body of that person.

Shares or rights held “indirectly”

9.—(1) A person holds a share “indirectly” if the person has a majority stake in another person and that other person—

- (a) holds the share in question, or
- (b) is part of a chain of persons—
 - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
 - (ii) the last of whom holds the share.

(2) A person holds a right “indirectly” if the person has a majority stake in another person and that other person—

- (a) holds that right, or
- (b) is part of a chain of persons—
 - (i) each of whom (other than the last) has a majority stake in the person immediately below it in the chain, and
 - (ii) the last of whom holds that right.

(3) For these purposes, a person (“A”) has a “majority stake” in another person (“B”) if—

- (a) A holds a majority of the voting rights in B,
- (b) A is a member of B and has the right to appoint or remove a majority of the board of directors of B,
- (c) A is a member of B and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in B, or
- (d) A has the right to exercise, or actually exercises, dominant influence or control over B.

(4) In the application of this paragraph to the right to appoint or remove a majority of the board of directors, a person (“A”) is to be treated as having the right to appoint a director if—

- (a) any person’s appointment as director follows necessarily from that person’s appointment as director of A, or
- (b) the directorship is held by A itself.

Shares held by nominees

10. A share held by a person as nominee for another is to be treated as held by the other (and not by the nominee).

Rights treated as held by person who controls their exercise

11.—(1) Where a person controls a right, the right is to be treated as held by that person (and not by the person who in fact holds the right, unless that person also controls it).

(2) A person “controls” a right if, by virtue of any arrangement between that person and others, the right is exercisable only—

- (a) by that person,
- (b) in accordance with that person’s directions or instructions, or
- (c) with that person’s consent or concurrence.

12. “Arrangement” includes—

- (a) any scheme, agreement or understanding, whether or not it is legally enforceable, and
- (b) any convention, custom or practice of any kind.

Rights exercisable only in certain circumstances etc.

13.—(1) Rights that are exercisable only in certain circumstances are to be taken into account only—

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person having the rights.

(2) But rights that are exercisable by an administrator or by creditors while a person is subject to relevant insolvency proceedings are not to be taken into account while the person is subject to those proceedings.

(3) “Relevant insolvency proceedings” means—

- (a) administration within the meaning of the Insolvency Act 1986(a),
- (b) administration within the meaning of the Insolvency (Northern Ireland) Order 1989(b), or
- (c) proceedings under the insolvency law of another country during which a person’s assets and affairs are subject to the control or supervision of a third party or creditor.

(4) Rights that are normally exercisable but are temporarily incapable of exercise are to continue to be taken into account.

Rights attached to shares held by way of security

14. Rights attached to shares held by way of security provided by a person are to be treated for the purposes of this Schedule as held by that person—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with that person’s instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person’s interests.

SCHEDULE 2

Regulation 32(1)

Internal repression goods and internal repression technology

Firearms and related goods

1. Firearms, ammunition and related accessories, as follows—

- (a) firearms;
- (b) ammunition specially designed for firearms;
- (c) weapon-sights.

2. Simulators for training persons to use firearms.

3. Bombs and grenades.

Vehicles

4.—(1) Subject to sub-paragraph (3), the following types of vehicles—

(a) 1986 c.45.
(b) S.I. 1989/2405 (N.I. 19).

- (a) vehicles equipped with a water cannon, specially designed or modified for the purpose of riot control;
- (b) vehicles specially designed or modified to be electrified to repel boarders;
- (c) vehicles specially designed or modified to remove barricades, including construction equipment with ballistic protection;
- (d) vehicles specially designed for the transport or transfer of prisoners or detainees;
- (e) vehicles specially designed to deploy mobile barriers.

(2) Components for the vehicles specified in sub-paragraph (1)(a) to (e) that have been designed for the purposes of riot control.

(3) Vehicles that might otherwise fall within sub-paragraph (1)(a) to (e) are not internal repression goods if they are specially designed for the purposes of fire-fighting.

(4) For the purposes of this paragraph, “vehicle” includes a trailer.

Explosive substances and related goods

5.—(1) Subject to sub-paragraph (3), equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including—

- (a) firing sets;
- (b) detonators;
- (c) igniters;
- (d) boosters;
- (e) detonating cord.

(2) Subject to sub-paragraph (3), components that have been specially designed for any thing mentioned in sub-paragraph (1).

(3) Sub-paragraphs (1) and (2) do not apply to any thing that has been specially designed for a specific commercial use.

(4) For the purpose of sub-paragraph (3), a “specific commercial use” means the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions, including—

- (a) car air-bag inflaters;
- (b) electric-surge arresters;
- (c) fire sprinkler actuators.

6. Linear cutting explosive charges.

7. The following explosives and related substances—

- (a) amatol;
- (b) nitrocellulose (containing more than 12.5 % nitrogen);
- (c) nitroglycol;
- (d) pentaerythritol tetranitrate (PETN);
- (e) picryl chloride;
- (f) 2,4,6-trinitrotoluene (TNT).

Other goods

8.—(1) Subject to sub-paragraph (2), the following equipment designed for the protection of a person—

- (a) body armour providing ballistic or stabbing protection or both;

- (b) helmets providing ballistic or fragmentation protection, or both, including anti-riot helmets;
 - (c) anti-riot shields and ballistic shields.
- (2) Sub-paragraph (1) does not apply to—
- (a) any thing that is specially designed to protect persons for the following purposes—
 - (i) participation in competitive sport;
 - (ii) ensuring safety at work;
 - (b) any thing mentioned in sub-paragraph (1)(a) or (b) when accompanying a person for that person’s own protection.
- 9.** Night vision equipment.
- 10.** Thermal imaging equipment.
- 11.** Image intensifier tubes.
- 12.** Razor barbed wire.
- 13.** The following types of knives—
- (a) knives that are designed for use by military personnel (military knives);
 - (b) knives that are designed for use as a weapon for inflicting injury (combat knives);
 - (c) bayonets with blade lengths in excess of 10 cm.

Production equipment

14. Any equipment which is specially designed or modified for the development or for one or more of the production phases of any item mentioned in paragraphs 1 to 13.

Software and technology

15. Any software which is specially designed for the simulators mentioned in paragraph 2.

16. Any technology which is specially designed for the development, production or use of any item mentioned in paragraphs 1 to 13.

Interpretation

17.—(1) In this Schedule, “firearm” means any portable barrelled weapon that expels, is designed to expel or may be converted to expel, a shot, bullet or projectile by the action of a combustible propellant.

(2) For the purposes of this Schedule, the following terms have the meaning given to them in the Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items—

- “development”;
- “production”;
- “software”;
- “technology”;
- “use”.

Definitions used in Part 5 (Trade)

PART 1

General

Definitions

1.—(1) For the purposes of this Schedule—

- (a) a thing “falls within” a commodity code if it is, or would be, classified under that commodity code, as set out in the Goods Classification Table;
- (b) a thing “falls within” a chapter if it is, or would be, classified under that chapter, as set out in the Goods Classification Table;
- (c) where a commodity code or chapter is preceded by “ex”, the goods specified in this Schedule constitute only a part of the scope of the commodity code or chapter and must fall within both the description given to that code or chapter in this Schedule and the scope of the code or chapter in the Goods Classification Table.

(2) For the purposes of determining whether or not a thing is, or would be, “classified” in accordance with sub-paragraph (1), the rules of interpretation contained in the following have effect—

- (a) Part Two (Goods Classification Table Rules of Interpretation) of the Tariff of the United Kingdom;
- (b) notes to a section or chapter of the Goods Classification Table.

(3) For the purposes of this paragraph—

“commodity code” includes a code denoting a heading or sub-heading;

“the Goods Classification Table” means the table so named in Annex I in Part Three of the Tariff of the United Kingdom;

“the Tariff of the United Kingdom” means the document containing the legal classification and import rate for products being imported into the United Kingdom, entitled “The Tariff of the United Kingdom” as revised or reissued from time to time^(a), including by any document published under regulations made under section 8(1) of the Taxation (Cross-border Trade) Act 2018^(b) replacing the same in whole or in part.

PART 2

Goods which could be used for migrant smuggling and human trafficking subject to trade prohibitions

2. For the purposes of regulation 32, “goods which could be used for migrant smuggling and human trafficking” means any thing which falls within the following commodity codes—

- (a) 8407 21;
- (b) ex 8408 10, provided that it is an outboard motor for marine propulsion with a compression ignition;

(a) The Tariff of the United Kingdom, Version 1.0 dated 8 December 2020 is available electronically from: <https://www.gov.uk/government/publications/reference-document-for-the-customs-tariff-establishment-eu-exit-regulations-2020>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

(b) 2018 ch.22.

- (c) ex 8501 31, provided that it is an electrical outboard motor for marine propulsion of an output not exceeding 750 W;
- (d) ex 8501 32, provided that it is an electrical outboard motor for marine propulsion of an output exceeding 750 W but not exceeding 75 kW;
- (e) ex 8903 10, provided that it is an inflatable vessel for pleasure or sports;
- (f) ex 8903 99, provided that it is an outboard motor boat.

SCHEDULE 4

Regulation 48

Treasury licences: purposes

PART 1

Designated Persons

CHAPTER 1

General purposes

Basic needs

1.—(1) To enable the basic needs of a designated person, or (in the case of an individual) any dependent family member of such a person, to be met.

(2) In the case of an individual, in sub-paragraph (1), “basic needs” includes—

- (a) medical needs;
- (b) needs for—
 - (i) food;
 - (ii) payment of insurance premiums;
 - (iii) payment of tax;
 - (iv) rent or mortgage payments;
 - (v) utility payments.

(3) In the case of a person other than an individual, in sub-paragraph (1), “basic needs” includes needs for—

- (a) payment of insurance premiums;
- (b) payment of reasonable fees for the provision of property management services;
- (c) payment of remuneration, allowances or pensions of employees;
- (d) payment of tax;
- (e) rent or mortgage payments;
- (f) utility payments.

(4) In sub-paragraph (1)—

“dependent” means financially dependent;

“family member” includes—

- (a) the wife or husband of the designated person;
- (b) the civil partner of the designated person;
- (c) any parent or other ascendant of the designated person;
- (d) any child or other descendant of the designated person;

- (e) any person who is a brother or sister of the designated person, or a child or other descendant of such a person.

Legal services

- 2. To enable the payment of—
 - (a) reasonable professional fees for the provision of legal services, or
 - (b) reasonable expenses associated with the provision of legal services.

Maintenance of frozen funds and economic resources

- 3. To enable the payment of—
 - (a) reasonable fees, or
 - (b) reasonable service charges,arising from the routine holding or maintenance of frozen funds or economic resources.

Extraordinary expenses

- 4. To enable an extraordinary expense of a designated person to be met.

Pre-existing judicial decisions etc.

- 5. To enable, by the use of a designated person's frozen funds or economic resources, the implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien, provided that—
 - (a) the funds or economic resources so used are the subject of the decision or lien,
 - (b) the decision or lien—
 - (i) was made or established before the date on which the person became a designated person, and
 - (ii) is enforceable in the United Kingdom, and
 - (c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person.

CHAPTER 2

Additional purposes: Libyan Investment Authority and Libyan Africa Investment Portfolio

Humanitarian assistance activity

- 6. To enable anything to be done in connection with the performance of any humanitarian assistance activity.

Provision of fuel etc. for civilian uses

- 7. To enable the provision of fuel, electricity and water for strictly civilian uses.

Hydrocarbons

- 8. To enable the resumption of Libyan production and sale of hydrocarbons.

Civilian government and public infrastructure

- 9. To enable the establishment, operation, or strengthening of institutions of civilian government and civilian public infrastructure.

Banking sector operations etc.

10. To enable the resumption of banking sector operations, including for the support or facilitation of international trade with Libya.

PART 2

Purposes relating only to UN designated persons

Prior obligations

11. To enable by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person arising under a contract, provided that—

- (a) the obligation arose before the date on which the person became a designated person, and
- (b) no payments are made to another designated person, whether directly or indirectly.

PART 3

Purposes relating only to non-UN designated persons

Prior obligations

12. To enable, by the use of a designated person's frozen funds or economic resources, the satisfaction of an obligation of that person (whether arising under a contract, other agreement or otherwise), provided that—

- (a) the obligation arose before the date on which the person became a designated person, and
- (b) no payments are made to another designated person, whether directly or indirectly.

Humanitarian assistance activity

13. To enable anything to be done in connection with the performance of any humanitarian assistance activity.

Diplomatic missions etc.

14. To enable anything to be done in order that the functions of a diplomatic mission or consular post in Libya, or of an international organisation enjoying immunities in accordance with international law, may be carried out.

Extraordinary situation

15. To enable anything to be done to deal with an extraordinary situation.

PART 4

Interpretation

16. In this Schedule—

“consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963(a), and any reference to the functions of a consular post is to be read in accordance with that Convention;

“designated person” means a designated person within the meaning of regulation 11 or 17;

“diplomatic mission” and any reference to the functions of a diplomatic mission, is to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961(b);

“frozen funds or economic resources” means funds or economic resources frozen by virtue of regulation 12 or 18, and any reference to a person’s frozen funds or economic resources is to funds or economic resources frozen as a consequence of the designation of that person for the purpose of that regulation;

“humanitarian assistance activity” includes the work of international and non-governmental organisations carrying out relief activities in Libya for the benefit of the civilian population there.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c.13) to establish a sanctions regime in relation to Libya. The Regulations are made for the purposes of complying with obligations the United Kingdom has by virtue of United Nations Security Council resolutions relating to Libya, and for the purposes of promoting respect for human rights in Libya, promoting the peace, stability and security of Libya, promoting the successful completion of Libya’s political transition, and preventing migrant smuggling and human trafficking in relation to Libya.

Following the UK’s withdrawal from the European Union these Regulations will replace the EU sanctions regime in relation to Libya. That EU regime is currently implemented via an EU Council Decision and Regulation.

These Regulations provide that persons who are listed by the UN are designated persons in the UK. The Regulations also confer a power on the Secretary of State to designate further persons who are, or have been, involved in certain specified activities in Libya. Designated persons may be excluded from the United Kingdom and/or may be made subject to financial sanctions, including having their funds or economic resources frozen. There are also specific financial sanctions giving effect to a partial asset-freeze imposed by the United Nations in respect of two entities named in Annex II of resolution 1973 adopted by the UN Security Council on 17 March 2011. These Regulations also impose trade restrictions in relation to military goods, items which could be used to repress the civilian population of Libya (as specified in Schedule 2 to the Regulations) and on certain goods which could be used for human trafficking or the smuggling of migrants (as specified in Schedule 3 to the Regulations). The Regulations also impose restrictions in relation to certain aircraft and ships, and certain activities which enable or facilitate the conduct of armed hostilities in Libya.

The Regulations provide for exceptions to this sanctions regime, in particular in relation to financial sanctions (for example to allow for frozen accounts to be credited with interest or other earnings) and also acts done for the purpose of national security or the prevention of serious crime. The Regulations also confer powers on the Secretary of State and the Treasury to issue licences in respect of activities that would otherwise be prohibited under certain sanctions. Schedule 4 to these Regulations sets out the purposes pursuant to which the Treasury may issue licences in certain cases in respect of the financial sanctions measures.

(a) United Nations Treaty Series, vol. 596, p.261.

(b) United Nations Treaty Series, vol. 500, p.95.

The Regulations make it a criminal offence to contravene, or circumvent, any of the prohibitions in these Regulations and prescribe the mode of trial and penalties that apply to such offences. The Regulations also confer powers on specified maritime enforcement officers to stop and search ships in international and foreign waters for the purpose of enforcing specified trade sanctions and to seize goods found on board ships which are being, or have been, dealt with in contravention, or deemed contravention, of those prohibitions. The Regulations prescribe powers for the provision and sharing of information to enable the effective implementation and enforcement of the sanctions regime.

These Regulations revoke Council Regulation (EU) 2016/44 (concerning restrictive measures in view of the situation in Libya and repealing Regulation (EU) No 204/2011). These Regulations also revoke the Libya (European Union Financial Sanctions) Regulations 2016, the Libya (Financial Sanctions) Order 2011 and the Export Control (Libya Sanctions) Order 2016.

An Impact Assessment has not been produced for these Regulations, as they are intended to ensure existing sanctions remain in place following the United Kingdom's withdrawal from the European Union. These Regulations are intended to deliver substantially the same policy effects as the existing European Union sanctions. An Impact Assessment was, however, produced for the Sanctions and Anti-Money Laundering Act 2018 and can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/653271/Sanctions_and_Anti-Money_Laundering_Bill_Impact_Assessment_18102017.pdf.

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